

# Personnel Manual



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## **INTRODUCTION**

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### **WELCOME**

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We are very excited that you chose to be a part of Graham County! This handbook is a tool for you to become oriented to our county and to your job. Our goal is that you not only get through all the required paperwork processing for new hires, but that you quickly learn about your new role, reduce your stress with coming onboard a new job and help you to transition successfully. It is important that you know not only where you are working and what you are responsible for, but that you know that you are part of a county of dedicated, hard-working employees who welcome

you! We want you to stay working with us and do so with high performance and productivity. Your commitment to Graham County begins with our commitment to you. Again, Welcome!

The purpose of these policies and procedures is to provide elected officials, management and employees of [Graham County](#) (hereinafter referred to as “The County”) with a concise document, which contains all the policies and procedures governing county personnel.

The personnel policies and procedures are presented in two forms: this handbook which is presented to all employees upon hire and an electronic copy which is located on [The County](#) website under Departments > Human Resources > Employee Information. Since changes can be made to policies, [The County](#) website version represents the “official” personnel policies and should be used to conduct employee orientation and resolve disputed matters. Each time an amendment is adopted by the [County Commissioners](#) ("County Commissioners") a copy will be placed in all department heads mailboxes for distribution to all employees in [The County](#) within one working day of approval of the amendment.

**Although the policies and procedures contained in this handbook and on [The County](#) website are the official personnel policies of [The County](#) which supersede all other policies, there may be other policies and procedures that are applicable to individual departments that supplement these policies. Supplemental policies, which have been approved by the [County Commissioners](#), have the same force and validity as if they were incorporated herewith but do not supersede this policy.**

Since this handbook will not be reprinted with every change in policy, employees should consult [The County](#) website version on important matters.

Reference is made throughout this handbook to the personal pronouns “his”, “him” and “he”. The use of these words is not intended to imply gender and consequently such references mean both male and female.

## **GRAHAM COUNTY MISSION STATEMENT**

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Graham County is rich in natural resources and its mountain culture makes it a unique place to live and visit. Graham County Government seeks to create a community that provides for the health and economic sustainability of its residents through friendly, transparent and efficient service delivery, while promoting, enhancing and protecting the rich natural and cultural resources over which we have been blessed.

## **GRAHAM COUNTY VISION STATEMENT**

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Graham County is the natural destination to live, work, play and STAY for residents and visitors alike!

# CHAPTER 1. ORGANIZATION OF THE PERSONNEL SYSTEM

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## SECTION 1-1. PURPOSE

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The purpose of these policies and procedures is to establish a personnel system which will recruit, select, develop and maintain an effective and responsible work force for [The County](#). These policies are established under the authority of [Chapter 153A, Article 5](#) and [Chapter 126](#) of the North Carolina General Statutes.

## SECTION 1-2. POLICY OF AT WILL EMPLOYMENT

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[The County](#) does not offer tenured or guaranteed employment. Either [The County](#) or the employee can terminate the employment relationship at any time, with or without cause, with or without notice. This at will employment relationship exists regardless of any other written statements or policies contained in this policy or any verbal statement to the contrary.

No entity except the [County Commissioners](#) can enter into any kind of employment relationship or agreement that is contrary to the previous statement. To be enforceable, the arrangement reflecting such relationship or agreement must be in writing; having been first lawfully adopted by the Board and is lawfully executed by [The County](#).

## SECTION 1-3. COVERAGE

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This policy manual will apply to all permanent, temporary, part-time, trainee and probationary employees and volunteers of [The County](#) except as specifically exempted.

The County Attorney, elected officials (including temporary appointments to such positions), any task force, advisory board, council, committee or commission are exempted from these policies unless specifically stated.

Employees of the [Board of Elections](#) will be subject to all Chapters except Chapter 4 Recruitment and Selection, Chapter 5 Employment Standards and Chapter 9 Employee Grievance Policy.

Employees of the [Sheriff's Department](#) and the [Register of Deeds](#) will be subject to all Chapters except Chapter 8 Separation, Disciplinary Action and Reinstatement and Chapter 9 Employee Grievance Policy.

Temporary employees will be subject to all Chapters except Chapter 10 Annual Leave/Sick Leave/Holiday Leave and Chapter 11 Employee Benefits.

## SECTION 1-4. MERIT PRINCIPLE

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It is the policy of [The County](#) to appoint, employ and promote according to merit and suitability for the position. All positions requiring the performance of the same duties and fulfillment of the same responsibilities will be assigned to the same class and the same salary range. [The County](#) will use all available means to attract qualified candidates for employment and makes such investigations and examination as are deemed appropriate to assess fairly the aptitude, education and experience, knowledge and skills, character, physical fitness and other qualities required for positions in the service of [The County](#). No applicant for county employment or county employee will 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, veteran or military status, non-disqualifying disability or age.

## SECTION 1-5. RESPONSIBILITY OF THE COUNTY COMMISSIONERS

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The [County Commissioners](#) will establish personnel policies, procedures and rules, including the classification and pay plan and will make and confirm appointments when required by law. The following appointments are required by law to be made by the [County Commissioners](#):

Position	NC General Statute
County Manager	<a href="#">N.C.G.S. 153A-81</a>
Clerk to the Board	<a href="#">N.C.G.S. 153A-111</a>
County Attorney	<a href="#">N.C.G.S. 153A-114</a>
Tax Assessor	<a href="#">N.C.G.S. 105-294</a>
Tax Collector	<a href="#">N.C.G.S. 105-349</a>
Health Director	<a href="#">N.C.G.S. 130A-40</a>
DSS Director	<a href="#">N.C.G.S. 108A-12</a>

Due to the nature of county government, the [County Commissioners](#) does not have appointing authority over certain positions or employees in certain departments. Those positions and departments are as follows:

### [Sheriff](#) and [Register of Deeds](#)

Pursuant to [N.C.G.S. 153A-103](#) and subject to the right of [The County](#) to limit the number of employees in the department, the [Sheriff](#) and [Register of Deeds](#) have the right to hire, discharge and supervise the employees in their respective offices, based on the number of funded and approved positions. However, for the [Sheriff](#) and [Register of Deeds](#), the [County Commissioners](#) must approve the hiring of relatives of nearer kinship than first cousin or of a person who has been convicted of a crime involving moral turpitude.

The [Sheriff](#) or [Register of Deeds](#) will prepare an employment statement verifying that a records check has been completed on prospective employees and certify that the person is not of closer

than first cousin relationship and has not been convicted of a crime involving moral turpitude. This statement must be delivered and filed with the [County HR Department](#).

#### County Elections Supervisor

[The County Elections Supervisor](#) is appointed by the [County Board of Elections](#) (N.C.G.S. 163-35). The elections board is empowered to appoint and remove a supervisor of elections and all registrars, judges, assistants and other officers of elections (N.C.G.S. 163-35).

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### **SECTION 1-6. RESPONSIBILITY OF THE COUNTY MANAGER**

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The [County Manager](#) will appoint, suspend or remove all county department heads except those who are elected by the people or whose appointment is otherwise provided for by law. The [County Manager](#) will make appointments, dismissals and suspensions in accordance with [N.C.G.S. 153A-82](#).

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### **SECTION 1-7. RESPONSIBILITY OF DEPARTMENT HEADS**

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Department heads will appoint, suspend or remove all county employees and agents within their respective departments with final approval of the [County Manager](#). Exceptions: The Director of Elections whose authority to appoint, suspend or remove employees is subject to Board of Elections approval ([N.C.G.S. 163-35](#)) and elected officials.

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### **SECTION 1-8. RESPONSIBILITY OF THE HUMAN RESOURCES DIRECTOR**

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The [Human Resources Director](#) will be responsible for maintaining personnel files on active and inactive employees, maintaining job descriptions, posting open positions and creating and maintaining forms for use in personnel administration. Works directly with the [County Manager](#) in establishing and maintaining a listing of approved positions within [The County](#) at the beginning of each budget year and recommending changes in personnel grades based on studies of similar positions. Any other duties as directed by the [County Manager](#).

## **CHAPTER 2. PAY PLAN**

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### **SECTION 2-1. ADOPTION**

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The Classification and Pay Plan is adopted by the [County Commissioners](#), effective July 1<sup>st</sup> each year. The [County Commissioners](#) has the authority to approve classification of all classes except competitive service classes which are subject to state classifications. Responsibilities for determining classifications in those departments rests with the State of North Carolina.

### **SECTION 2-2. POLICY**

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[The County](#) will have a pay structure that is externally competitive, maintains proper internal relationships among all positions based on the relative level of duties and responsibility and recognizes performance levels as the basis for pay increases within the established pay ranges. The schedule of salary ranges and class titles assigned to salary ranges has been approved by the [County Commissioners](#).

Each permanent and trainee position with [The County](#) will be classified into a standard class within the [County's Classification and Pay Plan](#). Positions will be grouped into classes in such a way that the positions included in each class are sufficiently similar in duties and responsibilities to warrant similar treatment in personnel and pay administration.

The [County Manager](#) will be responsible for making recommendations to the [County Commissioners](#) regarding allocation of positions to the appropriate classes on the plan.

### **SECTION 2-3. USE OF CLASS TITLES**

---

Official class titles are to be used in all personnel, payroll, accounting, budget, appropriation and financial records and transactions. Working or organizational titles may be used in all matters other than those involving official records as long as they do not interfere with class titles.

### **SECTION 2-4. ADMINISTRATION OF THE CLASSIFICATION AND PAY PLAN**

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The [County Manager](#) will be responsible for the administration and maintenance of the Pay Plan so that it will accurately reflect the duties performed by employees in the classes to which their positions are allocated.

The Pay Plan will be administered in a fair and systematic manner in accordance with work performed. The pay structure will be competitive, maintain proper internal relationships among all positions based on relative duties and responsibilities and recognize performance as the basis for pay increases within the established pay range.

The Pay Plan is intended to provide equitable compensation for all positions, reflecting differences in duties and responsibilities, the comparable rates of pay for positions in other local governments in Western North Carolina, changes in the cost of living, the financial conditions of [The County](#) and other factors. The [County Manager](#) will, from time to time, make comparative studies of all factors affecting the level of salary ranges and will recommend to the [County Commissioners](#) such changes in salary ranges as appear to be warranted.

New positions will be established only with the approval of the [County Commissioners](#) after which the [County Manager](#) will either:

1. allocate the new position to the appropriate class within the existing Classification and Pay Plan or
2. recommend that the [County Commissioners](#) amend the Classification and Pay Plan to establish a new class to which the new position may be allocated.

Department heads will 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 classification of any existing positions. Department heads will present to the [County Manager](#) written justification for why there should be a change in the position classification. In the case of a new position or a vacant position where duties have changed or will change, the justification should include the proposed changes in duties and responsibilities. In the case of an occupied position, the request will reflect changes in assigned duties and responsibilities. The department head's written justification should be detailed and specific enough for the [County Manager](#) to make a determination regarding further study.

**NOTE: All certifications required for your position must be submitted to the [County Manager](#) after completion of the course to classify proper positions.**

If the [County Manager](#) finds that a substantial change occurred in the nature or level of duties and responsibilities of an existing position, the [County Manager](#) will recommend to the [County Commissioners](#):

1. that the existing class specification be revised;
2. reallocate the position to the appropriate class within the existing Classification Plan; or
3. amend the Classification and Pay Plan to establish a new class to which the position may be allocated. The [County Manager](#) will be responsible for determining the grade level to which all new classes are assigned before approval by the [County Commissioners](#).

Exception: The [County Manager](#) will not recommend changes in classification for competitive service positions in the Health and Social Services and Emergency Management departments without prior approval from the [Office of State Human Resources](#) and in conjunction with the department head(s). Approval from the Office of State Human Resources for positions must be provided to the [County Manager](#) and the [Human Resources Officer](#) prior to any changes in assigned grade.

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## **SECTION 2-5. HIRING RATE/STARTING SALARY**



Employees will generally be hired at the minimum rate of their assigned salary grade. Appointments above the minimum rate may be recommended by the [County Manager](#) when deemed necessary to the best interests of [The County](#), based on such factors as superior qualifications of the applicant, a shortage of qualified applicants available at the minimum rate or the refusal of qualified applicants to accept employment at the minimum rate.

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## **SECTION 2-6. PAYMENT AT A LISTED RATE**

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Employees covered by the salary plan will be paid within the salary range established for their respective job class except for employees in a trainee status or employees whose present salaries are above the established maximum rate following transition to a new salary plan.

When an employee attains the maximum rate of a salary range for his present position, no further salary increase will be received unless:

1. the position is reclassified,
2. the employee is promoted to another position with a higher salary range or
3. the salary for the present position is increased.

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## **SECTION 2-7. TRAINEE SALARIES**

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An applicant hired or employee promoted to a position in a higher class, who does not meet all the established requirements of the position will be appointed with the approval of the [County Manager](#) at the minimum rate of the grade that is immediately one grade below the grade established for that position.

Employees subject to the [North Carolina Human Resources Act](#) will be designated “trainees” in accordance with rules and regulations established by the [Office of Human Resources](#).

All other county employees will be designated “trainees” based upon recommendations of the department head with the approval of the [County Manager](#). An employee in a trainee status will continue to receive a reduced salary until the appointing department head and the [County Manager](#) determine that the trainee is qualified to assume the full responsibilities of the position.

## **SECTION 2-8. PAY RATES FOR PROMOTION, DEMOTION, TRANSFER AND RECLASSIFICATION**

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When an employee is promoted, demoted, transferred or reclassified, the rate of pay for the new position will be established as follows:

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### **PROMOTION**

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When a promotion occurs, the employee's salary will be increased if it is below the new minimum, to the minimum rate of the salary range assigned to the class to which he is promoted. If budgetary constraints allow, the increase given will be equivalent to a percentage amount equal to the percentage difference between the range from which he is moving and the range to which he is being promoted. If an employee's current salary is already above the new minimum salary rate, his salary may be adjusted upward or left unchanged upon recommendation of the [County Manager](#), provided that the adjusted salary does not exceed the maximum of the assigned range.

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### **DEMOTION**

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If an employee is demoted as a result of a reclassification and the employee's current salary falls above the maximum of the range for the lower class, the employee's salary will remain the same until general schedule adjustments or range revisions bring it back within the lower range. If an employee is demoted as a result of a voluntary request or for cause, the employee's salary will be reduced to the lower salary range.

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### **TRANSFER**

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When a transfer occurs from a position in one class to a position in another class, assigned to the same pay range, the employee will continue to receive the same salary. When an employee requests a permanent transfer to another position not previously held and the change is not a promotion or demotion, the employee will normally receive the minimum rate in the pay range established for that position unless previous experience warrants a higher starting rate.

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### **RECLASSIFICATION**

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When a reclassification occurs, and an employee's position is reclassified to a class having a higher salary range, the employee's salary will be increased to the minimum step of the new salary range. If the employee's current salary is already above the minimum salary rate, his salary may be adjusted upward or left unchanged at the discretion of the [County Manager](#), provided that the adjusted salary does not exceed the maximum of the assigned salary range.

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## **SECTION 2-9. PAY RATES IN SALARY RANGE REVISIONS**

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If the [County Commissioners](#) approves a change in salary range for a class of positions, the salaries of employees whose positions are allocated to the class will be affected as follows:

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### **HIGHER PAY RANGE**

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When a class of positions is assigned to a higher pay range, employees in that class may receive an increase to the minimum range of the new grade.

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### **LOWER PAY RANGE**

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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 for the new class, the salary of the employee will be maintained at that level until such time as the employee's pay range is increased above the employee's current salary.

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## **SECTION 2-10. COST-OF-LIVING ADJUSTMENTS**

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[Cost-of-living adjustments \(COLA\)](#) will be recommended by the [County Manager](#) and approved by the [County Commissioners](#). Cost of living adjustments will apply to all ranges of the Salary Plan and will never apply to select individuals, salary ranges or classifications. If a regular employee's salary is below the minimum for his position after the cost of living increase becomes effective, his salary will be increased to the new minimum effective with the pay period immediately following the cost of living increase.

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## **SECTION 2-11. PAY FOR PART-TIME WORK**

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The Salary Plan established by the [County Manager](#) and approved by the [County Commissioners](#) is intended to be for full-time service, however an employee in a salaried position appointed for less than full-time service will be paid the same rate of pay as an employee working full-time as established by the [The County Pay Scale](#).

All employees in a salaried position who work less than thirty-seven and a half (37.5) hours a week will be covered by [Worker's Compensation](#) and [Social Security](#). Other benefits are available as provided in Chapter 10.

## **SECTION 2-12. OVERTIME/COMPENSATORY POLICY**

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### **DEFINED**

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Overtime is defined as all work performed in excess of the hours permitted under the [Fair Labor Standards Act](#) (FLSA) workweek. Overtime will be paid at a rate of one and one-half times the employee's straight hourly rate.

[The County](#) abides by all applicable sections of the [Fair Labor Standards Act](#) and the Fair Labor Standards Amendments of 1986. [The County](#) will properly record all applicable overtime accrued for each covered employee. This overtime policy is applicable only to employees of [The County](#) who are nonexempt under the FLSA.

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### **COMPUTATION**

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Overtime is computed as hours worked in excess of the hours permitted under the FLSA workweek. Vacation, sick, holiday and compensatory time used do not count as hours worked for the purpose of determining overtime hours.

With the exception of public safety employees, any hours worked by non-exempt employees in excess of 40 hours during a pay week require overtime pay or, compensatory time off as stated in the [Compensatory Time Policy](#) below.

Public safety employees (law enforcement and detention officers) may work varied schedules totaling no more than 86 hours per pay period. Public safety employees who work in excess of 86 hours per pay period will be compensated by overtime pay or, compensatory time off.

#### **Compensatory Time Policy – Amended September 20, 2016**

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### **PURPOSE**

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To ensure accuracy, consistency and standardization with the guidelines in the reimbursement for overtime and compensatory time by the employees of [The County](#).

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### **POLICY**

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Compensation/overtime ***must be prior approved*** by the employee's supervisor with final approval from the [County Manager](#). The supervisor may change an employee's work schedule from the "routine" scheduled hours to allow flexibility in work hours and not create compensation/overtime. Employees are to take regular lunch/meal breaks and are not to work during these breaks unless approved by their supervisor. This approval should only be given to complete work that cannot be completed during regular work hours due to an emergency or urgent need on the agency's behalf.

Approved compensation time will be scheduled off during the month accrued if possible. The employee is due time off or monetary compensation for all approved compensatory time. The

employee may request monetary compensation only when time off would create scheduling difficulties. Requested compensation must be approved by the [County Commissioners](#).

Compensatory time limitations by county policy are not to exceed:  
240 hours for general employees or  
480 hours for public safety employees ([Sheriff](#) and EMS).

Compensatory time will be earned at time and one half (1½) and taken off at time and one half (1½).

The Department Head may consult with the County [Finance Department](#) to pay for overtime instead of offering compensation time in certain programs where it would create hardship to offer these employees compensatory time off. This paid overtime should be pre-calculated into the agency budget.

Time off which includes vacation and compensatory time will be requested by the employee and approved by the supervisor. Time off will be granted at the request of the employee if at all possible. Denial or rescheduling of requested time off may occur when multiple staff request the same time off and the agency is without sufficient staff to provide services. Conflict resolution will occur in the following manner. The supervisor will attempt to bring about a compromise among the parties. The final decision will be made by the Department Heads based on several factors, to include: who made request for time off first and longevity of individuals requesting time off. The needs of the agency will be considered in the decision.

Compensation/overtime will be granted for official travel. The employee will subtract off from the accrued time for meal breaks and any non-work-related stops during the trip. Travel time should be reasonable and prudent. Every effort will be made by the agency to allow the employee to travel on regular time. Official travel time does not include travel made to and from the employee's home to a work site in [The County](#) where the individual resides or to the Graham County offices to report for regular work.

If you are in overnight status and your training or meeting does not start until after your regularly scheduled work start time, then you are not in work status until the meeting starts. If your meeting ends before your regularly scheduled work stop time, then you are not in work status and your compensation time should reflect these hours.

Overtime/compensation time is payable only after the employee has worked over 40 hours in a week and 86 hours for [Sheriff Department](#) every two weeks. Hours worked does not include leave, holiday or benefit time.

Example - during a week when a holiday occurs and the employee works 32 hours of regular time with 8 hours of holiday pay, then the employee would be compensated at straight time for additional hours worked that week until it exceeds 8 hours. After the additional 8 hours making a total of 40 hours (86 hours for [Sheriff](#) in two-week time) worked, any additional hours would be in compensation/overtime status and at 1½ rate.

Example - a general employee works 42 hours in a week. The employee will earn  $2 \times 1.5 = 3$  hours of comp time. If an employee works 38 hours in the first week of a pay period and 42 hours the second week, then they will earn 3 hours comp time for the second week and pay back to the first week with 2 hours leaving 1 hour of comp time.

Compensation time must be kept on the agency Compensation Record maintained by the [Human Resources Officer](#). It is the responsibility of the employee to secure supervisor's approval in writing on a County form provided for this situation. Accrued compensation time must be exhausted before the employee uses *any* other benefit time.

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## **SECTION 2-13. EMPLOYEES UNDER THE STATE HUMAN RESOURCES ACT**

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### [Chapter 126. North Carolina Human Resources Act. Article 1.](#)

The purpose of Chapter 126 is to establish for the government of the State a system of personnel administration under the Governor, based on accepted principles of personnel administration and applying the best methods as evolved in government and industry. It is also the intent of this Chapter that this system of personnel administration shall apply to local employees paid entirely or in part from federal funds, except to the extent that local governing boards are authorized by this Chapter to establish local rules, local pay plans and local personnel systems. It is also the intent of this Chapter to make provisions for a decentralized system of personnel administration, where appropriate, and without additional cost to the State, with the State Human Resources Commission as the policy and rule-making body.

The County has elected to follow the [State Human Resources Act](#) guidelines for all employees to the extent it is possible. Certain employers In Graham County are **always** subject to the [State Human Resources Act](#) pursuant to [N.C.G.S.126-5](#):

Graham County Schools  
Smoky Mountain Center  
Graham County Public Health  
Graham County DSS  
Graham County Emergency Management

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## **SECTION 2-14. PREPARATION OF PAYROLL**

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All payroll will be prepared in the [Finance Department](#) from time cards signed by the employees and approved by the appropriate department heads. Direct deposit notices will be distributed every two (2) weeks. Direct deposit notices will be distributed by the department heads or other appropriate administrative personnel approved by the [County Manager](#).

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## **SECTION 2-15. PAYROLL DEDUCTIONS**

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The County [Finance Director](#) is authorized to make established deductions from an employee's gross pay to cover federal and state income taxes, contributions for retirement systems and

employee group insurance premiums. With the authorization of the employee, the [Finance Director](#) may also make payroll deductions for optional benefits, credit union and other miscellaneous deductions as deemed appropriate by the [Human Resources Department](#).

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### ACCEPTABLE PAYROLL DEDUCTIONS

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Federal and state income taxes, Social Security tax, garnishments and retirement contributions will be deducted as authorized by law and the [County Commissioners](#).

The salaries of employees exempt under the [Fair Labor Standards Act](#) (FLSA), [29 CFR Part 541](#) and MAY be reduced or be subject to deduction for the following conditions ONLY:

1. For a day or additional full days of absence for personal reasons other than sickness or disability and the employee has no leave to cover the absence.
2. For sickness or disability (including workplace injury) if the employee has not qualified for leave benefit, has not earned sufficient leave to cover the absence or has exhausted all leave and has no earned leave remaining to cover the absence. If the employee has exhausted all leave benefit that would cover a [Family and Medical Leave Act \(FMLA\)](#) absence, the employee's salary may be reduced in hourly increments while on [FMLA](#) leave.
3. Deductions resulting from suspensions without pay for serious violations of our workplace misconduct rules. *(See the separate policy: [Suspensions without Pay for Serious Workplace Misconduct](#), Chapter 2 Section 15 Payroll Deductions).*
4. In the initial or final workweek of employment, deductions may be made for days of the workweek not worked. For example, in the first or last workweek of work, if the employee works two of the five days, the employee will receive 2/5 (two fifths) of their weekly salary. In the final workweek, the employee may use applicable accrued leave to cover the portion of the week not worked, but only as provided elsewhere in our policies.
5. Back pay on premiums owed to [The County](#) for employee benefits may be payroll deducted using a payment plan that will not place the employee's earnings to be below wage. An acknowledgement form must be signed by the employee and [Finance Director](#) prior to deductions beginning.
6. Garnishments allowable by court order. As stated by the [U.S. Department of Labor](#), "Other types of legal or equitable procedures for garnishment include IRS or state tax collection agency levies for unpaid taxes and federal agency administrative garnishments for non-tax debts owed the federal government."

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## AUTHORIZED SALARY REDUCTIONS

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Pursuant to [Federal Regulations 29 Part 541.710](#), salaries of exempt employees may be reduced under the following conditions in that all agency employees are employed under the rules of public accountability. For absences of less than a day for personal reasons, illness or injury when accrued leave is not used because:

1. Permission for the absence/leave has not been sought or it has been requested by the employee and was denied.
2. Accrued leave has been exhausted.
3. The employee requests or chooses to use leave without pay.
4. Deductions for a budget-required layoff or short-time implemented by agency management or the governing board/body. During such week and only during such week, the Part 541 exemption is lost, and the employee is entitled to overtime compensation during the week of the layoff or short-time if the employee works more than 40 hours (or other standard is employed in law enforcement or firefighting) despite being in furlough status.

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## UNLAWFUL OR IMPROPER DEDUCTIONS FROM PAY

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

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

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## COMPLAINT PROCEDURES FOR INCORRECT PAY DEDUCTIONS

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Every effort is made to ensure that compensation and pay checks are properly computed and calculated. It is against our policy for employee's wages to have improper or unlawful deductions. If you believe that your pay is incorrect or that an improper or unlawful deduction was made to your wages or salary, contact the [Human Resources Department](#) **BEFORE THE NEXT PAY PERIOD ENTRY DATE**. Employees can report improper or unlawful deductions from their wages without fear of discrimination or reprisal.

Upon receiving notification of an improper or unlawful deduction from pay, the [Human Resources Department](#) in consultation with the [Finance Department](#) will investigate the matter



and issue a finding before the next pay period entry date. If the investigation confirms the deduction was improper or unlawful, the employee(s) will be reimbursed the amount of the deduction with the next paycheck.

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## SUSPENSIONS WITHOUT PAY FOR SERIOUS WORKPLACE MISCONDUCT

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All employees, hourly, salaried exempt and nonexempt, may be suspended for one or more whole days without pay for violations of the following workplace conduct rules committed on or off-site. The list is not exhaustive and workplace misconduct that is serious, disruptive and harmful and, in the view of management, is of a similar level as the examples provided below, will result in disciplinary suspensions without pay for one or more whole days:

1. Unlawful harassment, including sexual, racial, disability, religious, national origin or other protected characteristic or harassment for exercising a protected right.
2. Threatening, enticing, encouraging or committing workplace violence, including physical assault, physical altercation or physical intimidation, including making another fear physical harm to self or property.
3. Theft, sabotage or vandalism of property, including intellectual property belonging to the employer or other employee.
4. Violation of the drug and alcohol policy.
5. Violations of state or federal laws other than minor traffic violations.
6. Grossly inefficient job performance and unacceptable personal conduct as defined in [Chapter 7 Separation, Disciplinary Action and Reinstatement](#).

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## SECTION 2-16. TERMINATION PAY

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Upon termination of employment, an employee is entitled to payment for unused annual leave up to a maximum of 240.00 hours for county employees required to work 7.50 to 8.00 hours per day; 360.00 hours for [Sheriff](#) and Jail employees required to work 12.00 hours per day; and 720.00 hours for EMS Employees required to work 24.00 hours per day, less any deductions for debts outstanding with [The County](#).

No sick leave will be paid upon termination of employment. The [Finance Director](#) will deduct from the final paycheck any amount owed [The County](#) for group insurance premiums or continuing education fees (see next paragraph). The final payment for unused vacation leave will be combined with the final paycheck. Vacation leave will be paid in full upon termination. Each department will turn in termination notices within two (2) working days.

Should any employee terminate employment within the periods of time following completion of training or education as hereinafter limited, then, in that event, they will reimburse [The County](#) for the expenses thereof, as outlined in the following schedule, considered reasonable and accommodating:

If employee leaves prior to:	Amount to be reimbursed:
12 months	100%
18 months	50%
24 months	25%

Variations from this policy may be granted only by written permission of the [County Manager](#).

### **SECTION 2-17. CALL BACK AND STAND-BY PAY**

[The County](#) provides a continuous twenty-four hour a day, seven day a week service to the citizens. Therefore, it is necessary for certain employees to respond to any reasonable requests for duty at any hour of the day or night. One of the conditions of employment with [The County](#) is the acceptance of a share of the responsibility for continuous service, in accordance with the nature of each job position. If an employee fails to respond to reasonable calls for emergency service, either special or routine, the employee will be subject to disciplinary action, up to and including dismissal.

**Call-back.** Non-exempt employees will be guaranteed a minimum payment of one hour of wages for being called back to work outside of normal working hours when not on stand-by. "Call-back" provisions do not apply to previously scheduled overtime work (scheduled one or more days in advance).

**Stand-by.** Non-exempt employees pay for stand-by time may be included in their regularly bi-weekly rate of pay. If an employee reports for duty while on stand-by time, compensation pay, or compensation time will begin being paid for any hours physically worked over (40) forty in a given workweek. Overtime pay starts at the time of leaving the destination until returning to said destination.

## **CHAPTER 3. RECRUITMENT AND SELECTION**

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### **SECTION 3-1. EQUAL EMPLOYMENT OPPORTUNITY AND AMERICANS WITH DISABILITIES STATEMENT**

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It is the policy of [The County](#) to foster, maintain and promote equal employment opportunity, in accordance with the [Equal Employment Opportunity Commission](#) and the [Americans with Disabilities Act](#). [The County](#) does not discriminate or harass on the basis of race, color, national origin, religion, age, sex (including gender identification and sexual orientation), genetic information, disability or political affiliation in employment, determination of pay or the provision of services.

It is the policy of [The County](#) that we are an [Equal Employment Opportunity Employer](#) and therefore, follow all such policies. Appointing authorities and other personnel responsible for recruitment and employment, will continue to regularly review the implementation of this policy and relevant practices to assure that equal employment opportunity based on reasonable performance-related job requirements is being actively observed. Notices with regard to equal employment matters will be posted in conspicuous places where notices are customarily posted.

### **SECTION 3-2. PRIORITY FOR FILLING VACANT POSITIONS**

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It is [The County](#)'s policy to create career opportunities for its employees wherever possible and when it is in the best interests of [The County](#). Therefore, present county employees will be given priority consideration in filling a vacancy, provided they would appear to be the best qualified for the position if it were advertised to the general public. Appointment of a current county employee to a vacant position may be done without officially advertising the vacancy outside of county government if the procedures for recruitment in Section 3 are followed. However, if other applicants possess comparable qualifications and, if the automatic promotion or transfer of a current employee would continue any historical discriminatory employment practices, [The County](#) must consider other applicants.

Veterans of the armed services and employees separated because of reduction in force policies will also be given priority consideration provided they are qualified for the position.

### **SECTION 3-3. RECRUITMENT**

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Recruitment for vacant positions will be conducted in a fair and equitable manner. Those stated above, in Section 2, are given priority consideration for vacant positions; however, good management practices dictate obtaining the best possible pool of applicants. [The County](#) will keep a file of current applications for six (6) months.

When job vacancies occur, the hiring authority: [County Manager](#), [Board of Elections](#), [Sheriff](#), [Register of Deeds](#), [Health Director](#) or [DSS Director](#) may select candidates from any of the categories listed below:

Current employees

Employees separated because of reduction in work force  
Veterans  
Outside applicants

1. Current employees may be selected from the department where the vacancy exists. Notice of the vacancy will be posted in conspicuous places or employees notified so that all employees in the department will have an equal opportunity to apply for the vacancy.
2. If the hiring authority determines no applicants in the above category are qualified or it is desirable to expand the scope of recruitment, then current employees may be selected from any department in county government. Notice of the vacancy will be adequately posted and distributed so that all employees in county government will have an equal opportunity to apply for the vacancy.
3. If the hiring authority does not find satisfactory candidates in the above two categories or if it is desirable to expand the scope of recruitment, he may recruit from the general public. If the vacancy is advertised to the general public, the [Human Resources Director](#) will be responsible for adequately publicizing such vacancy and listing the vacancy with the [North Carolina Employment Security Commission](#). Notice of the vacancy will also be prominently posted in areas where notices are customarily posted in order to notify current employees of the vacancy.

Job advertisements will contain assurance of equal employment opportunity and provide basic information about the position being advertised. Recruitment will be from a geographic area as wide as is necessary to ensure that well qualified applicants are obtained.

If an opening occurs in a position that has been advertised in the last six (6) months and there is a need to fill the position rapidly, applications may be pulled from the applicant pool from the prior advertisement without completing the above recruitment procedure.

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### **SECTION 3-4. APPLICATION FOR EMPLOYMENT**

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All persons applying for employment with [The County](#), including current employees will be required to complete an employment application.

The [North Carolina State Application \(PD 107\)](#) will be the standard application for all departments with the exception of Transit which will use the [NC DOT](#) approved application.

All information provided on the application must be true and correct. Providing false information may be grounds for elimination from consideration for a vacant position and/or dismissal from county employment. Additional punishment may be warranted as provided in [N.C.G.S. 14-122.1](#).

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### **SECTION 3-5. TESTING**

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Applicants for certain positions may be required to take various tests which measure ability, aptitude or skill.

All tests given to applicants will be properly validated for the position and purpose intended, administered and evaluated by qualified individuals, must be job-related and appropriate for the employer's purposes.

All tests administered will conform to all applicable legal regulations.

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### **SECTION 3-6. IDENTIFICATION**

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Those persons applying for positions which operate a motor vehicle must present a valid North Carolina driver's license at the time of employment. The department head or [Human Resources Department](#) will, prior to employment, conduct a review of the [Division of Motor Vehicles](#) record of the person to be hired and have a criminal record check performed. Such record will become a part of the employee's personnel file.

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### **SECTION 3-7. RESIDENCY REQUIREMENT**

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[The County](#) gives preference to Graham County residents. However, if prospective employees live outside of Graham County and their place of residence would not be detrimental to the performance of duty, they will be considered on their merit.

Residence within [The County](#) will not be required but is preferred.

---

### **SECTION 3-8. POST-OFFER/PRE-EMPLOYMENT CHECKS AND DRUG TESTING**

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All applicants being offered conditional employment must undergo a pre-employment background check that is based on job necessity and which may include a criminal background check, credit check, driving history check, sex offender registry search and/or other applicable searches specific to the job being offered.

A successful drug test must also be completed before extending a final offer of employment.

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### **SECTION 3-9. QUALIFICATION STANDARDS**

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A criminal history background check of all applicants for Graham County government positions is required in order to protect [The County](#) from possible conduct which might be detrimental to [The County](#), individuals served by [The County](#) and its property.

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#### **FELONIES**

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Any person who is known by the [Sheriff](#) to have been convicted of a felony crime involving theft, burglary, embezzlement, robbery, fraud, bribery or misappropriation will not be offered employment with [The County](#).

In order to protect [The County](#) from conduct which might be detrimental to the individuals served by [The County](#); no person who is known by the [Sheriff](#) to have been convicted of a felony crime involving assault, kidnapping, child abuse, rape, crime against nature, homicide, incest, indecent liberties, indecent exposure, obscenity or sexual assault will be offered employment with [The County](#) in any position. Further, no individual who applies to volunteer as a coach in any youth program sponsored by [The County](#) will be approved if known by the [Sheriff](#) to have been convicted of any misdemeanor or felony crimes listed in this paragraph.

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## MISDEMEANORS

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In making a determination as to qualification for employment of persons known by the [Sheriff](#) to have been convicted of a misdemeanor, [The County](#) may consider the following: length of time since conviction, nature of the crime, circumstances surrounding the commission of the offense or offenses, evidence of rehabilitation, number of prior convictions and age of the person at the time of occurrence.

In the event a vacancy occurs or of a vacancy occurring in any County position, the [County Manager](#) will require any final applicant for the position to provide fingerprints as necessitated by specific department standards and/or all other necessary personal identification in order that the [Sheriff](#), his designee or the current Drug and Alcohol Testing Company might cause a thorough search to be made of local and state criminal history records to determine if the applicant has a history involving criminal conviction for any of the crimes enumerated in the previous paragraphs of this article. The [Sheriff](#), his designee or the current Drug and Alcohol Testing Company will cause a check for state criminal history records of all final applicants for any county position including volunteer positions. The [Sheriff](#), his designee or the current Drug and Alcohol Testing Company will cause all records to be forwarded to the [County Manager](#) and/or [Human Resources Officer](#).

In the event that the [County Manager](#) finds that a final applicant for a position has a criminal history involving a conviction for one of the crimes in this article, he will provide the applicant the opportunity to challenge the accuracy of the information. Having done so, the [County Manager](#) will notify the Department Head in writing whether or not he approves the particular applicant for the position. If the applicant is not approved, the [County Manager](#) will eliminate the particular applicant from further consideration of employment.

All applicants considered for employment or promotion will meet the qualification standards established by the class specifications relating to the position to which the appointment is being made.

All appointments will be made on the basis of qualifications. Consideration may be given to "Trainee" appointments when there is an absence of qualified applicants from which to make a selection. The deficiencies may be eliminated through orientation and on-the-job training. The hiree must be designated a trainee by the [Human Resources Officer](#) (general county positions) and/or the Office of State Personnel (all positions subject to the State Personnel Act).

## CHAPTER 4. EMPLOYMENT STANDARDS

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### SECTION 4-1. PROBATIONARY PERIOD OF EMPLOYMENT

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**An employee appointed to a permanent position will serve a probationary period of twelve (12) months.**

An employee serving a probationary period may be dismissed at any time it is determined the employee is not satisfactorily performing the assigned duties and performance is not likely to improve without following the steps outlined in Chapter 7 of this policy.

[The County](#) provides to all eligible employees a group health plan with Insurance Companies. Coverage is effective on the first of the month following sixty (60) days of full-time employment (hire date).

[The County](#) provides to all eligible employees leave benefits and holiday pay. The benefits will begin after an employee has completed sixty (60) days of satisfactory county service and has been approved for full time probationary employment. The leave benefits will be as follows:

**After 60 days (1<sup>st</sup> day of the month following your 60-day completion):**

Health Insurance and Life Insurance paid by [The County](#)  
Dental Insurance - 50/50 paid by county and employee (not required)

**After 60 days: Begin accrual of annual (vacation) leave, sick leave:**

Eligible for Holiday Pay, any leave(s) awarded full-time permanent employees as stated in this policy. This date will serve as your accrual date on years of service.

**After 12 months: Retirement and [FMLA](#):**

After employee completes the probationary period for permanent full-time or permanent part-time positions and after they have worked a (6) month probationary period and have reached 1,000 hours or more, they will participate and be eligible in the [NC Local Government Retirement System](#).

Qualify for [FMLA](#) (Family Medical Leave Act)

### SECTION 4-2. DEMOTION

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An employee whose work is unsatisfactory may be demoted provided the employee shows promise of becoming a satisfactory employee in another position. Such a demotion will be made in accordance with the procedures in Chapter 7. The employee will be provided with written notice citing the recommended effective date of the demotion, reasons for the demotion and appeal rights available to the employee as stated in Chapter 7 of this personnel manual.

An employee who wishes to accept a position with less complex duties and reduced responsibilities may request a voluntary demotion. A voluntary demotion is not a disciplinary action and is made without using the procedures in Chapter 7 of this personnel manual.

### **SECTION 4-3. TRANSFER**

---

If a vacancy occurs and an employee eligible for transfer from another department wishes to be considered for the appointment, a written request and application must be forwarded to the proper authority during the recruitment period for the position. The request for transfer will be subject to approval of the affected department head. Any employee transferred without his having requested it may appeal the action in accordance with the grievance procedure in Chapter 7.

### **SECTION 4-4. ABSENTEEISM AND TARDINESS**

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You are hired to perform an important function at Graham County Government and as with any group effort, it takes cooperation and commitment from everyone to operate effectively.

Therefore, your attendance and punctuality are very important. Absences cause a slow-down in the work and added burdens for your fellow employees. Good attendance is something that is expected from all employees. Excessive absenteeism or tardiness will not be tolerated and will be cause for disciplinary action up to and including discharge.

Employees of [The County](#) who are unable to report for a regularly assigned work day are required to notify their department head or supervisor of such absence and the reason(s) at least thirty (30) minutes prior to the start of the scheduled shift.

Employees who do not properly give notice of or document their absences or who are habitually tardy, use sick leave for improper reasons, habitually use annual leave or develop a pattern of such absence may be subject to disciplinary action up to and including termination.

If an employee is absent without leave or notification for three (3) or more days, after the five (5) days without pay approved by the [County Commissioners](#) has been exhausted he may be deemed by [The County](#) to have abandoned his position and may be terminated without further notice, review or hearing.



## **CHAPTER 5. CONDITIONS OF EMPLOYMENT**

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### **SECTION 5-1. WORK WEEK**

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The standard work week for all employees of the various departments of [The County](#) will be a minimum of thirty-seven and one half (37.5) hours per week. The normal daily work schedule is a minimum of seven and one half (7.5) hours plus a one half (0.5) hour lunch period, with the exception of those departments who are on a flexible work-week schedule.

Those departments work four (4) ten-hour days per week with a “flex day” off. When the activities of a particular department require another schedule, Department Directors may authorize a deviation from the normal schedule. Because of the nature of various county activities, some positions require a work week of more than five (5) days such as law enforcement and emergency medical service personnel. Department heads will work those hours necessary to ensure the satisfactory performance of their departments, but not less than a minimum of thirty-seven and one half (37.5) hours per week.

Offices are to remain open during lunch hours unless permission is obtained from the [County Manager](#). Departments should coordinate staff schedules accordingly.

### **SECTION 5-2. CONFLICT OF INTEREST/GIFTS AND FAVORS**

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In accordance with Board policy and related legislation, no employee, officer, agent, immediate family member or Board member of Graham County will participate in the selection, award or administration of a contract supported by Federal and/or State funds if a conflict of interest, real or apparent, would be involved.

Such a conflict would arise when any of the following has a financial or other interest in the firm selected for award:

1. The employee, officer, agent or Board member;
2. Any member of his immediate family;
3. His or her partner; or
4. An organization that employs or is about to employ, any of those listed.

[The County](#)'s officers, employees, agents or Board members will neither solicit nor accept gifts, gratuities, favors or anything of monetary value from contractors, potential contractors or parties to sub agreements. These limitations are not intended to prohibit the acceptance of articles of nominal value which are distributed generally or to prohibit employees from obtaining personal loans from regular lending institutions.

Violation of this policy may result in disciplinary action up to and including dismissal. The disciplinary procedures are set forth in Chapter 7-8.

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### **SECTION 5-3. PERSONAL TELEPHONE CALLS**

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County phones, including cell phones, are to be used for county business and may be used for personal business on a very limited basis. Cell phones are provided to deputies and department managers who need to be accessible after normal business hours.

Telephone calls received during business hours must be held to both a minimum number and time limit and must not interfere with the employee's work. It is the employee's responsibility to ensure that no cost to [The County](#) results from personal telephone calls.

Violation of this policy will result in reimbursement to [The County](#) and may result in disciplinary action as set forth in Chapter 7-8.

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### **SECTION 5-4. USE OF COUNTY PROPERTY**

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Use of property owned or leased by [The County](#) is intended for official county business only. Property including supplies, tools, materials and equipment are not for personal use and should not be removed from county premises except in the conduct of official county business. Use of personal property on county premises is discouraged and must be kept to a minimum and must be pre-approved by the [County Manager](#).

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### **SECTION 5-5. NEPOTISM**

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No two members of an immediate family will be employed within the same department without approval of the [County Manager](#). Under no circumstances will an employee be supervised by one of their immediate family members or work on the same crew with an immediate family member.

The term "immediate family" means an employee's wife, husband, mother, father, guardian, son, daughter, brother, sister, grandchild, grandparent and great grandparent as well as the various combinations of half, step, in-law and adopted relationships that can be derived from those family members named herein.

The provisions of this section will not be retroactive and no action will be taken concerning those members of the same family employed in conflict with Section 2 above, prior to the adoption of this policy.

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### **SECTION 5-6. POLITICAL ACTIVITY RESTRICTED**

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Every employee of [The County](#) has a civic responsibility to support good government by every available means and in every appropriate manner. Any employee may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings and may advocate and support the principles and policies of civic or political organizations in accordance with the constitution and laws of the United States of America. However, while on duty with [The County](#), whether during business hours or not, no employee of [The County](#) will:

1. Engage in any political or partisan activity;
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 of 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 funds, supplies or equipment of [The County](#) for political or partisan purposes.

Employees subject to [The Hatch Act](#) may not be candidates for elected office in a partisan election.

Any violation of this section may subject the employee to dismissal or other disciplinary action.

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## **SECTION 5-7. DRESS CODE AND GROOMING CODE**

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Graham County employees contribute to the culture and reputation in the way they present themselves. A professional appearance is essential to a favorable impression with customers, regulators and stakeholders. Good grooming and appropriate dress reflect employee pride and inspire confidence on the part of such persons.

The department heads and/or supervisors, at the approval of the [County Commissioners](#), may exercise reasonable discretion to determine appropriateness in employee dress and appearance. Employees who do not meet a professional standard may be sent home to change.

Although it is impossible and undesirable to establish an absolute dress and appearance code, [The County](#) will apply a reasonable and professional workplace standard to individuals on a case-by-case basis. Management may make exceptions for special occasions or in the case of inclement weather.

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### **BUSINESS CASUAL ATTIRE**

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[The County](#) expects employees to dress appropriately in business casual attire. Because our work environment serves customers, professional business casual attire is essential. Customers make decisions about the quality of our services based on their interaction with you.

Consequently, business casual attire includes suits, pants, jackets, shirts, skirts and dresses that, while not formal, are appropriate for a business environment. Examples of appropriate business attire include a polo shirt with pressed khaki pants, a sweater and a shirt with corduroy pants, a jacket with a skirt or slacks and a blouse or a sweater with a skirt or pants. Pantsuits and sports jackets also fit the business casual work environment if they are not too formal. Jeans (and denim material in general), t-shirts, shirts without collars and footwear such as flip flops, sneakers and sandals are not appropriate for business casual attire.

Employees are expected to demonstrate good judgment and professional taste. Use courtesy towards co-workers and your professional image to customers as the factors you use to assess

whether you are dressing in business attire that is appropriate. This includes clothing with profane language statements or clothing that promotes causes that include, but are not limited to, politics, religion, sexuality, race, age, gender and ethnicity.

Our goal is to provide a workplace environment that is comfortable and inclusive for all employees. We expect that your business attire, although casual, will exhibit common sense and professionalism.

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### DEPARTMENTAL SPECIFIC GUIDELINES

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Employees who wear business attire that is deemed inappropriate in [The County](#) will be dealt with on an individual basis. Some departments may require specific guidelines that differ from these business casual guidelines and employees are expected to adhere to the policy directive for their department.

All public safety employees, who by definition of their job responsibilities must wear either protective clothing or assigned uniforms (as designated by their department requirements) or jeans and boots because of daily work in the field (including construction sites) are expected to dress as appropriate for their job. They are not, therefore, expected to adhere to the dress code below. However, it is expected that all employees be neatly dressed for their role.

Management or employees with higher level positions will be required to dress in accordance with their positions. When meeting clients, business dress guidelines must be observed, unless the nature of the meeting would allow for an exception to be made

Adapted from: <https://www.thebalance.com/simple-sample-dress-codes-for-business-attire-1917931>

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### SECTION 5-8. EXPECTATION OF ETHICAL CONDUCT

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The proper operation of County government requires that public officials and employees be independent, impartial and responsible to the people; that governmental decisions and policy be made in the proper channels of the governmental structure; that public offices not be used for personal gain; and, that the public have confidence in the integrity of its government.

As stewards of public resources and holders of the public trust, county employees are expected to uphold the highest standards of ethical conduct while fulfilling their job duties and responsibilities.

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### ALL GRAHAM COUNTY EMPLOYEES WILL ADHERE TO THE FOLLOWING ETHICS POLICY

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It is the policy of [The County](#) that its employees and board members, whether elected or appointed, uphold the highest standards of ethical and professional behavior. To that end, these employees and board members, whether elected or appointed, will dedicate to carrying out the mission of this organization and will:

1. Hold paramount the safety, health and welfare of the public in the performance of professional duties.
2. Act in such a manner as to uphold and enhance personal and professional honor, integrity and the dignity of the profession.
3. Treat with respect and consideration all persons, regardless of race, creed, religion, gender, sexual orientation, maternity, marital or family status, pregnancy, disability, genetic information, age or national origin.
4. Engage in carrying out [The County](#)'s mission (as stated above in the Introduction to this manual) in a professional manner.
5. Collaborate with and support other professionals in carrying out [The County](#)'s mission.
6. Build professional reputations on the merit of services and refrain from competing unfairly with others.
7. Recognize that the chief function of [The County](#) at all times is to serve the best interests of its constituency.
8. Accept as a personal duty the responsibility to keep up to date on emerging issues and to conduct themselves with professional competence, fairness, impartiality, efficiency and effectiveness.
9. Respect the structure and responsibilities of the board of directors, provide them with facts and advice as a basis for their making policy decisions and uphold and implement policies adopted by the [County Commissioners](#).
10. Keep the community informed about issues affecting [The County](#).
11. Conduct organizational and operational duties with positive leadership exemplified by open communication, creativity, dedication and compassion.
12. Exercise whatever discretionary authority they have under the law to carry out the mission of the organization.
13. Serve with respect, concern, courtesy and responsiveness in carrying out the organization's mission.
14. Demonstrate the highest standards of personal integrity, truthfulness, honesty and fortitude in all activities in order to inspire confidence and trust in such activities.
15. Avoid any interest or activity that is in conflict with the conduct of their official duties.
16. Respect and protect privileged information to which they have access in the course of their official duties.
17. Strive for personal and professional excellence and encourage the professional developments of others.

Note: These requirements are under [N.C.G.S. Article 5 of Chapter 160A](#).

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## **SECTION 5-9. BREAKS**

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Breaks are not required by law and consequently should be considered as a privilege. Breaks should not interfere with the employee's work and should not be taken unless work circumstances warrant. Office personnel and other employees responsible for answering the telephone and serving walk-in visitors will arrange to have their duties handled by another employee while they are on break.

Breaks will be confined to county property unless otherwise allowed by the department head. Under no circumstances may break time be carried over into another time period, saved for another day, combined with other types of leave or added together to make one long break. Break time will not exceed ten (10) minutes each for the morning and afternoon.

Unauthorized use of breaks will be deducted from your time sheets and/or subject to disciplinary action.

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## **SECTION 5-10. HARASSMENT/SEXUAL HARASSMENT**

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### **DEFINED**

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Harassment is defined as any physical or verbal conduct demonstrating hostility toward a person because of his age, sex, race, color, religion, national origin, disability, veteran or military status or other "legally protected status" that has the purpose or effect of creating an intimidating, hostile or offensive work environment or interferes with an individual's work performance or otherwise adversely affects an individual's employment opportunities.

Harassing conduct includes, but is not limited to: epithets, slurs, negative stereotyping or threatening, intimidating or hostile acts that relate to age, sex, race, color, religion, national origin, disability or political affiliation. Written or graphic material that denigrates or indicates hostility or aversion toward an individual or group is prohibited from display on the employer's premises or circulation in the workplace.

Harassment does not include the conduct or actions of supervisors intended to provide employee discipline, such as deficiency notices, performance evaluations, oral warnings, reprimands or other supervisory actions intended to promote positive performance.

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### **POLICY**

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It is the policy of [The County](#) that harassment will not be tolerated. All employees are prohibited from engaging in the harassment of any other employee or other person in the course of or in the connection with employment. The desired standard of employee behavior is one of cooperation and respect for each other, despite any differences.

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### **SEXUAL HARASSMENT**

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Sexual harassment includes unwelcome sexual advances, requests for sexual favors and other verbal or physical advances of a sexual nature. It is County policy to fully support enforcement of State and Federal anti-discrimination laws which provide that sexual harassment is prohibited where:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of employment;

2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals (quid pro quo); or
3. Such conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

It is the right of all employees to seek, at any time, redress by the State Human Rights Commission, the [Equal Employment Opportunity Commission](#) or through a court of law; however, employees are encouraged to exhaust [The County's](#) Administrative remedies before consulting outside agencies.

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## PROCEDURES

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Procedures in case of report of harassment:

1. In any case in which the supervisor is witness to or confronted with a situation of harassment, the supervisor will immediately document and notify the offending party that harassment is not appropriate and will not be tolerated. Ultimate disciplinary action will await completion of the procedure.
2. An employee subjected to any form of harassment should report such activity in writing to his non-involved supervisor, department head or directly to the [Human Resources Department](#).
3. A supervisor is required to report harassment cases in writing to his department head, who in turn, is required to report the matter in writing to the [Human Resources Department](#). Such reports to superiors and to the [Human Resources Department](#) are to be made in writing regardless of how knowledge of the case was acquired.
4. The [Human Resources Manager](#), [County Manager](#) or County Manager's designee will investigate and submit a written report setting forth the facts of the case and a recommendation for action.
5. The results of the investigation and the nature of the disciplinary action will be communicated in writing by the [Human Resources Department](#) or [County Manager's](#) Office to both the complainant and the offender as well as the affected department head. Either party may appeal the decision in writing through the normal grievance procedure if it is felt the findings were incorrect or the disciplinary action inappropriate.

Any employee who harasses another employee or member of the public may be subject to the full range of disciplinary action, including discharge.

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## FRATERNIZATION

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Due to the potential for difficulties arising from intimate relationships between supervisors and subordinates, dating of supervisors and subordinates is not allowed. Dating between two members of the same department is discouraged but is not prohibited. If a person with supervisory authority establishes an intimate relationship with someone who is their subordinate, either the supervisor or the subordinate must inform Upper Management of such relationship and will be transferred to

a different department if a vacancy is available or tender a resignation with final approval by the [County Commissioners](#). This policy will not be retroactive but will be adhered to going forward.

## **SECTION 5-11. E-MAIL, INTERNET AND COMPUTER RESOURCES POLICY**

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Compliance with the E-Mail, Internet & Computer Policy is a condition of employment.

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### **PURPOSE**

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This policy covers the use of electronic technology resources belonging to or used by, [The County](#). It includes, but is not limited to, all computer systems, software, network resources, fax machines, cell phones and internet resources.

All technology resources owned by [The County](#) are county property and are in place to enable [The County](#) to provide its services in a timely and efficient manner. This is the primary function of these resources and any activity or action that interferes with this purpose is prohibited. Because technology systems are constantly evolving, [The County](#) requires its employees to use a common-sense approach to the rules set forth below, complying not only with the letter, but also the spirit, of this policy.

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### **SCOPE**

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This policy will apply to all persons, whether employees, independent contractors or agents of [The County](#) or otherwise, who use [The County's](#) electronic technology resources, excluding public access users utilizing designated public access computers. All persons using [The County's](#) electronic technology resources must comply with all software licenses, copyright laws and all other State and Federal laws governing intellectual properties.

Authorization to use [The County's](#) e-mail systems and access the Internet will be granted by the [County Manager](#) or designee, on an as needed basis outside normal business working hours.

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### **OWNERSHIP AND PRIVACY EXPECTATIONS**

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All technology resources and all information transmitted by, received from and stored on [The County](#) systems are the property of [The County](#) and as such, are subject to inspection by County officials.

**Employees using the electronic technology resources of Graham County for communication DO NOT HAVE AN EXPECTATION OR RIGHT OF PRIVACY.**

[The County](#) has the right to audit and monitor the information on all systems, electronic mail and information stored on computer systems or media, without advanced notice. This might include investigation of theft, unauthorized disclosure of confidential business or proprietary information, personal abuse of the system or monitoring workflow and productivity.



1. E-mail created, sent or received through the use of any county-owned resource is property of [The County](#), not its employees.
2. Users can have no expectations or rights of privacy in anything they create, send, store or receive on any County-owned electronic technology resource. The recipient of a message may forward it to any number of other parties. E-mail may become evidence in legal cases. A good rule is to compose e-mail with the expectation that it will become public.
3. Do not use e-mail for confidential communications without approval by the [County Manager](#) or his designee.
4. [The County](#) owns software that will be used to monitor Internet sites visited.
5. County Information Technology personnel will be the System Administrator for all servers attached to [The County](#) network.
6. Because the Internet is used as a part of a work activity, [The County's](#) code of conduct applies to network activities as well. Therefore, the procedures in the policy are an extension of [The County's](#) Personnel Policy.
7. In all activities, including the use of any technology, the confidentiality of employees, customers, vendors and others must be respected.

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## POLICY VIOLATIONS

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The following are example of violations of this policy, but are not limited to the following:

1. Solicit or advertise for personal or commercial gain;
2. Solicit or advertise for outside organizations, religious, charitable or political causes; (Exceptions may be made for organizations such as United Way and other like agencies with prior approval from the [Human Resources Director](#));
3. Create, send, view, fax, store messages and/or websites that may reasonably be regarded as offensive, obscene, disruptive, illegal, fraudulent, profane, embarrassing or libelous. These include information that may be construed as harassment or disparagement of others based on their race, national origin, sex, sexual orientation, age, disability or religious or creed, genetic information, color, pregnancy or any other characteristic protected by applicable federal, state or local law or political beliefs. Users encountering or receiving such material should immediately report the incident to their supervisor; to send or receive by any means copyrighted materials, proprietary information or similar materials without express authorization from the author; send or forward email or fax materials either internally or externally, without identifying themselves clearly and accurately. Anonymous or pseudonymous posting is expressly forbidden;
4. Attempt to access another employee's email without permission;
5. Use another employee's access code to view, alter or distribute information without the express authorization of that employee;
6. Use County electronic technology resources to access and use sensitive or confidential information in a manner not originally intended;
7. Load employee-owned or non-county purchased software on county electronic technology resources, whether intended for legitimate business matters, personal purposes or amusement; this includes shareware, freeware, personal software, stealth ware (programs that hide the user's use of the computer) or Internet distributed programs;

8. Load County owned software on county electronic technology resources without clearance from the Information Technology Department; this includes shareware, freeware, personal software or Internet distributed programs;
9. Alter, add or remove any county technology resources without clearance and approval from the Information Technology Department;
10. Perform System Administrator functions on servers attached to [The County](#) network;
11. Download files from any source and not scans for viruses; this includes files obtained as email attachments or by any other file transfer mechanism. It is the responsibility of [The County](#) employees to take prudent steps to prevent the introduction or propagation of viruses.
12. Use electronic resources in any illegal, malicious or inappropriate manner;
13. Transmit confidential personnel information using e-mail systems of the fax machine; or
14. Use personal software without the approval of Information Technology Director.

If [The County](#) determines that an employee has used electronic technology resources in a manner that violates this policy or other State or Federal law, the violation may result in disciplinary action up to and including termination, as outlined in Section 7 of [The County](#) Personnel Policy.

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### PERSONAL USE OF THE COUNTY'S RESOURCES

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Personal use of [The County](#)'s electronic technology resources is allowed with the following restrictions:

1. Employees should be aware that personal use of County technology resources is still subject to all rules in this policy including inspection, monitoring and confidentiality.
2. There must be no cost to [The County](#).
3. Facebook, Twitter, Snapchat or any other social media is not allowed during normal business hours. You may use social media during your lunch hour on your own time and not on [The County](#)'s network.
4. Use must not interfere with other employees performing their jobs or undermine the use of [The County](#) resources for official business.
5. Use of [The County](#)'s electronic technology resources for operating a personal business is prohibited.
6. Individuals who are not employees of [The County](#) (including an employee's family or friends) are not allowed to use [The County](#)'s electronic technology.
7. Personal use of [The County](#)'s electronic technology resources neither expresses nor implies sponsorship or endorsement by [The County](#).
8. Sending or forwarding of jokes, chain letters or large images is prohibited.
9. All personal use of [The County](#)'s electronic technologies must not be used in any other manner that may be construed as harassment or discrimination.
10. Do not use a work email address to create or register any social media accounts intended for personal use.

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### APPROPRIATE USE

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At all times when an employee is using [The County](#) electronic technology resources, he is representing [The County](#). Use the same good judgment in all resource use that you would use in written correspondence or in determining the "appropriate conduct". [The County](#)'s employees are expected to use county-provided electronic technology resources responsibly and professionally.

[The County](#) is not responsible for the actions of individual users. This policy may be amended or revised periodical as the need arises. Failure to follow guidelines as set forth in this policy will result in disciplinary action, up to and including termination.

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### PRIVATE SOCIAL MEDIA USE

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Use of social media can be a great way to stay in touch with friends and family and to share your personal interests and thoughts. However, with its use comes responsibilities.

Policies for social media use while you are working for [The County](#) (on county time and using county resources) have been addressed above.

Your private use of social media is expected to follow these guidelines as well:

1. Always use respectful language and never use any language that could be construed as harassing, bullying, threatening or discriminatory.
2. Provide your personal opinions only and do not provide comments or opinions on behalf of [The County](#).
3. If you have any doubt about making a particular post, don't. All electronic content is potentially searchable and therefore findable and never goes away.

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### DISCLOSURE OF PUBLIC RECORDS

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1. All requests for public records in the possession of any department of Graham County Government will be made to the custodian of those records. The custodian of public records is the public official in charge of the office having the public records. Upon receipt of the request for records or information, the custodian will immediately consult with [The County](#) Attorney if the custodian is uncertain about whether the public records can be released under the North Carolina Public Records Act and [The County](#) Attorney will render a legal opinion to the custodian concerning the release of such records.
2. The custodian of the public records will permit the requesting party to examine any and all public records subject to disclosure under the North Carolina Public Records Act at reasonable times and under reasonable supervision and will, as promptly as possible, provide copies of the requested public records subject to disclosure to the requesting party.
3. All persons requesting public records will pay twenty-five (.25) cents per copy for each page of the public records provided to the requesting party.
4. The custodian of the public records will respond to all requests for examination and copying of public records as promptly as possible as provided by statute, but in no event will such response occur more than thirty days after such request for public records is made to the custodian.

5. The North Carolina Public Records Act requires the production of documents and other records by the custodian(s) of such records. The North Carolina Public Records Act does not require the custodian(s) of public records to create documents where none exist. Public records custodians in [The County](#) will have no duty or obligation to create documents in response to requests for public information when no such records exist.
6. Nothing contained in this policy will be interpreted to restrict the rights of the public to access of public records as set forth in [N.C.G.S. Chapter 132](#), Public Records.

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## **SECTION 5-12. RECORDS RETENTION POLICY**

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[The County](#) adopted the [North Carolina Department of Cultural Resources, Division of Archives and Records - Records Retention and Disposition Schedule for County Management](#) on March 24, 2010. In accordance with the provision of [Chapters 121](#) and [Chapter 132](#) of the General Statutes of North Carolina, it is agreed that the records do not and will not have further use or value for official business, research or reference purposes after the respective retention periods specified herein and are authorized to be destroyed or otherwise disposed of by the agency or official having custody of them without further reference to or approval of either party to this agreement.

It is further agreed that these records may not be destroyed prior to the time periods stated; however, for sufficient reason they may be retained for longer periods. This schedule is to remain in effect from the date of approval until it is reviewed and updated.

Each employee is responsible for checking the records retention schedule applicable to his assigned department prior to disposing of hard copies of documents or emails that may be considered public record and for knowing what is and what is not a public record.

The email retention time is based upon what type of document classification under which the email would fall. "Public record" or "public records" will mean all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions. Agency of North Carolina government or its subdivisions will mean and include every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority or other unit of government of the State or of any county, unit, special district or other political subdivision of government.

The records retention schedule may be found online at the following link <http://www.ncdcr.gov/archives/ForGovernment/RetentionSchedules/LocalSchedules.aspx>. Note that there are schedules for various different departments. It is each employee's responsibility to adhere to the schedule applicable to his department.

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## **SECTION 5-13. DISCLOSURE OF CONFIDENTIAL INFORMATION**

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No county official or employee will disclose confidential information, sensitive information, [HIPAA](#) protected information or any other information regulated by state or federal law concerning the property, government or affairs of [The County](#), nor will he, under any circumstances, use such information to advance the financial or other private interest of himself or others. Confidentiality agreements must be signed for each department and such will be placed in your personnel file.

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### **SECTION 5-14. ON-STREET PARKING**

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The limited amount of parking space around county buildings is always a problem. County employees are not permitted to utilize street parking during normal business hours. Merchants need those spaces for customers as well as visitors to county buildings needing to transact business with the various offices and departments. Employees should use [The County](#) and town parking lots, carpool if possible and keep personal autos out of the on-street parking spaces.

## **SECTION 5-15. NO SOLICITATION**

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Vendors are not allowed to market products, services, etc. on county property during office hours except those vendors representing a company dealing in products or services related to the business of [The County](#). Approval for those accepted will be at the discretion and direction of the department head or the [County Manager](#) to ensure minimal office disruption.

## **SECTION 5-16. SAFETY**

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Safety is the responsibility of both county management and employees. It is the policy of [The County](#) to establish a safe work environment for employees. [The County](#) will provide a safety program including policies and procedures regarding safety practices and precautions and training in safety methods. [The County](#) will comply with all safety laws ordinances and regulations.

Employees will be instructed in the safety aspects and working methods of their job through training. Personal protective equipment and any other special equipment will be provided to the employees for the protection against job hazards. To carry out this policy, all members of management must cooperate and take an active part in the risk control program. The program includes:

1. A safety organization, including a safety committee, to assure a continuing and improving program for accident prevention.
2. Safety education and training for all employees, including publication of safety rules and procedures necessary to control accidents.
3. Safety education and training specific to each department's needs.
4. Safety inspections to detect hazards and unsafe working conditions or procedures.
5. Thorough investigation of accidents to be sure corrective action is taken.
6. Emphasis on good housekeeping and cleanliness.
7. All employees are expected to perform their jobs correctly and, thus, safely. Employees are expected to follow safety rules and regulations, report unsafe conditions and unsafe acts, which could cause accidents and to report injuries and damaged promptly. Employees who willfully violation safety rules or indulges in unsafe practices which could endanger self, fellow employees or county property will be subject to disciplinary action up to and including termination.

Each employee is responsible for following good, safe work habits and for complying with safety and health regulations. Safety and health are to be placed first in importance in the performance of work duties.

The protection of employees and the public on County property is a shared responsibility of every employee. Employees are responsible for notifying their immediate supervisors of violations or deficiencies in safe and healthful working conditions. This responsibility includes recommending corrective measures.

Employees will immediately notify their immediate supervisors of every injury or accident, regardless of their scope or severity. Failure to follow required procedures, directives, policies,

rules, supervisory orders or safe work habits will result in disciplinary action up to and including termination as described in Chapter 7.

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## LOSS CONTROL POLICY

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Whereas, [The County](#) realizes that it has the responsibility to provide a safe work environment for its employees, that each employee pursues the highest standards in his assigned activities; County employees must recognize that the wellbeing of persons involved in the protection of our physical resources is as important as the activity and work being performed.

Now, therefore, be it resolved by the [Board of Commissioners of Graham County](#) as follows:

[The County](#) has established a safety and loss control program to be implemented and monitored on a continuous basis.

As the first segment of [The County](#)'s program, a safety coordinator has been appointed and assigned the responsibility of organizing the overall safety and loss control efforts.

A safety committee has been created to establish loss control policy, investigate major losses and loss trends and assigns other safety responsibilities as needed. The safety coordinator chairs the committee.

Each county department head will be responsible for the safety and well-being of the workers in his department as well as the required maintenance of the facilities and equipment in his area of responsibility.

Each county employee will be responsible for his own personal safety and for the safe completion of assigned tasks. [The County](#) requires its employees to respond to all planned safety efforts and to perform their assigned job in the safest manner possible.

[The County](#) is committed to doing all in its power to make its safety and loss control program a success and expects all county employees to assist in this effort by contributing expertise and by following all established rules and procedures.

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## RESPONSIBILITIES

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**Board of Commissioners** - The [County Commissioners](#) supports a countywide safety program through personnel policies and budgetary considerations.

**Safety Committee** - This committee will function as an advisory body to develop and recommend to the [County Manager](#) matters of policy and procedure affecting administration of the Graham County Safety Program, specifically, the committee is responsible for:

1. Planning and recommending policies and procedures affecting the development and administration of an aggressive accident prevention program.
2. Reviews statistical data, records and reports of safety matters to determine the effectiveness of the program.

3. Serving as the accident review board by reviewing investigation reports, meeting with employee and his immediate supervisor to gather additional information and recommending appropriate disciplinary action, in accordance with county policy, to the department head in the event of avoidable accident with personal injury or property damage determining if employee safety meetings established by department heads are sufficient to meet the needs of The County safety program and employees.

**Safety Coordinator** - The safety coordinator is responsible for the implementation and operation of the safety program which will include training, accident and insurance follow-up and vehicle and building safety. The safety coordinator will represent the [County Manager](#) in all safety matters and can stop a work operation temporarily when serious injury or property damage is possible. The safety coordinator may request a meeting with any employee in an on-the-job injurious situation in an effect to determine the cause of the situation or accident.

**Department Heads** - Each department head is designated as responsible to the [County Manager](#) for employee safety. The department head has supervisory responsibility for all safety functions and activities within his area. Each department head will:

1. Hold each supervisor accountable for injuries incurred by his employees to the extent that the injuries are preventable through training and observance of safety rules and procedures. Provide leadership by setting a proper example for all employees; be responsible for successfully operating the department safety program and completing the department's safety objectives.
2. Develop policies and procedures as necessary, formed by independent departments. These will have to be approved by safety committee.
3. Ensure that all employees, new and old are trained or retrained in accepted methods.
4. Provide personal protective equipment and instruction when necessary and follow-up on proper use of equipment.
5. Require department quarterly safety meetings to review accidents, analyze their causes and promote free discussion of hazardous work problems and possible solutions if pertinent to the department.
6. Encourage safety suggestions and written comments from employers and adopt those that are feasible.
7. Require accidents to be promptly reported, thoroughly investigated by supervisory personnel and properly recorded.
8. Ensure that prompt, corrective action is taken whenever unsafe conditions are recognized and unsafe acts are observed.
9. Ensure that all employees are capable of performing all physical and mental job duties and that all employees are capable of performing all physical and mental job duties and responsibilities capable for the performance of their work responsibilities.
10. Ensure that proper OSHA records be posted.

**Supervisors** - Supervisors will assume the responsibility of thoroughly instructing their personnel in safe practices to observe in their work situation. They will consistently enforce safety standards and requirements to the utmost of their ability and authority. Supervisors will act positively to



eliminate any potential hazards within any activities under their jurisdiction they will set an example of good safety practice in all spheres of their endeavors. Safety records will be measured along with phases of supervisor performance. Therefore, it is absolutely essential that such records are complete and accurate and that all accidents be fully reported. Principal duties of supervisors are as follows:

1. Enforce all safety rules and procedures.
2. Make certain all injuries are reported promptly and treated properly and all accidents are reported, even if injury is not apparent.
3. Conduct thorough investigations on all accidents and take necessary steps to prevent recurrence through employee safety education, operating procedures or modification of equipment. Complete a supervisor's accident or incident investigation report.
4. Provide employees with complete safety instructions regarding their duties prior to the employees actually starting to work.
5. Conduct regular safety checks, including, careful examination of all new and relocated equipment before it is placed in operation.
6. Properly maintain equipment and issue instructions for the elimination of fire and safety hazards.
7. Continuously inspect for unsafe practices and conditions and properly undertake any necessary corrective action.
8. Develop and administer an effective program of good housekeeping and maintain high standards of personnel and operational cleanliness throughout all operations.
9. Provide safety equipment and protective devices for each job based on knowledge of applicable standards or on recommendations of the safety coordinator.
10. Conduct safety briefing and encourage the use of employee safety suggestions.
11. Give full support to all safety procedures, activities and programs.
12. Require doctor's permission for an employee to return to work after a worker's compensation injury or an extended absence from work.

**Employee -** Employees will be required, as a condition of employment:

1. To exercise care in the course of their work to prevent injuries to themselves and to their fellow workers.
2. Use the safety equipment which has been provided for use in performing daily work assignments.
3. Wear the prescribed uniform and safety shoes, as required.
4. Do not operate equipment for which training or orientation has not been received.
5. Warn co-workers of unsafe conditions or practices they are engaged in which could lead to or cause an accident.
6. Report defective equipment immediately to a supervisor.

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**REPORT DANGEROUS OR UNSAFE CONDITIONS THAT EXIST IN THE  
WORKPLACE**

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1. Report all injuries and accidents regardless of the severity as soon as practical.

2. Protect the public from unsafe conditions resulting from work that could present a hazard to them.
3. Take care not to abuse tools and equipment, so that these items will be in usable condition for as long as possible, as well as to ensure that they are in the best possible condition while being used.
4. Participate in all required safety occupational health training and be certain that they understand instructions completely before starting work.
5. Serve on safety committee or inspection team when appointed or elected.

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## OPERATIONS

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**Safety Committee Meeting** - The safety coordinator will provide an agenda and maintain minutes of the meeting. Meetings will be held bi-monthly at a pre-designated time and place.

**Monthly Safety Training/New Employee Orientation** - All supervisors will conduct a monthly, safety meeting with their employees. Date, those in attendance and the topic of discussion will be documented. All newly-assigned employees will receive a safety orientation before going to work in their designated duty section. Orientation should be conducted by the employee's supervisor. It will be documented and signed by both the supervisor and employee and the copy placed in the employee's personnel records.

**Accident Investigation** - Accident investigation will be performed by the immediate supervisor of the employee involved. If two or more employees were separately involved in the accident, the supervisor of each will perform independent investigations.

Any accident involving death, permanent disability, temporary disability, hospitalization, medical treatment, loss of time from work by county employee, damage to or destruction of any property or injury to a visitor will be investigated.

Any accident involving five or more persons, or a fatality needs to be reported immediately to the safety officer and/or the [County Manager](#). The purpose of accident investigations is to prevent the recurrence of accidents by identifying contributing causes, determining corrective measures necessary to eliminate causes and to identify and remedy causes. Copies of accident investigations will be forwarded to the safety coordinator.

**Self-Inspections** - The purpose of self-inspections is to identify hazardous work conditions and materials or methods that may result in an accident so that these hazards can be corrected. Each activity and facility will be inspected not less than once every six (6) months.

The department head is responsible for preparing an inspections schedule for all activities for his department. The department head will also designate inspectors for their department and inspection checklists should be used to record findings.

Upon completion of the inspection checklists, recommendations will be furnished to the department head and safety coordinator. The department head will take whatever corrective

action deemed appropriate, maintain a record of completion of such corrective action and furnish the safety coordinator a record of completion.

**Safety Bulletin Board and Safety Suggestion Box** - Each department is suggested to have a safety bulletin board and safety suggestion box. This should be placed in common areas of county facilities. All suggestions will be discussed at the departmental meetings.

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## **SECTION 5-17. IMMIGRATION LAW REQUIREMENTS**

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All employees are required to furnish proof of citizenship or other required documents indicating a legal right to work in the United States. Copies of the completed [I-9 form](#) will be retained in the [Human Resources Department](#). [The County](#) participates in [E-Verify](#). As stated on their website:

*E-Verify is an Internet-based system that compares information from an employee's Form I-9, Employment Eligibility Verification, to data from U.S. Department of Homeland Security and Social Security Administration records to confirm employment eligibility.*

[Equal Opportunity Employer](#) Statement:

*Graham County provides equal employment opportunities (EEO) to all employees and applicants for employment without regard to race, color, religion, sex, national origin, age, disability or genetics. In addition to federal law requirements, Graham County complies with applicable state and local laws governing nondiscrimination in employment in every location in which the County has facilities. This policy applies to all terms and conditions of employment, including recruiting, hiring, placement, promotion, termination, layoff, recall, transfer, leaves of absence, compensation and training. Graham County expressly prohibits any form of workplace harassment based on race, color, religion, gender, sexual orientation, gender identity or expression, national origin, age, genetic information, disability, or veteran status. Improper interference with the ability of Graham County's employees to perform their job duties as assigned may result in discipline up to and including discharge.*

## SECTION 5-18. FLEET POLICY

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### PURPOSE

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This policy establishes uniform vehicle use practices for all county employees and departments and to ensure safe and efficient use of public property.

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### OVERVIEW

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Certain employees in various departments may be required to use/operate county vehicles during work hours. County vehicles are assigned to one or more employees for their primary use during the workday. At the end of the workday, all county vehicles are to be parked in their assigned parking area unless specifically exempt by the Department Director.

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### PROCEDURE

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#### **Overnight Assignment:**

Authorized employees may use county vehicles overnight when the best interest of the public is served by providing county employees with safe, dependable transportation for extensive travel during or after working hours, for after-hours response to emergency requests for service or for an approved, official purpose as determined by the [County Manager](#) (or designee).

**Authorization for use of county vehicles overnight may be granted by the [County Manager](#) to specified employees based on the following criteria:**

1. Employees whose regular duties require frequent use of a county vehicle overnight and whose responsibilities involve emergency response, after hours response, evening and weekend duties, public meetings or other business activities.
  2. Employees assigned to stand-by duty who are subject to call or who respond to service requests.
  3. Employees on temporary overnight assignment by his Department Director for emergencies or an approved official purpose.
  4. Employees expected to respond when called after hours, unless specifically excused due to authorized leave.
- 

### USAGE

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County vehicles will:

1. Be used for official county business only.
2. Not be used for the convenience of the employee with regard to transportation needs or other non-business activities.
3. Not be driven to an out-of-county residence if used by an employee for commuting to and from work without the approval of the [County Board of Commissioners](#).

County vehicles may be used to travel to a nearby restaurant for lunch where the cost-benefit in travel time to the work quarters for a personal vehicle would not be in the best interest of [The County](#).

At no time:

1. Are alcoholic beverages are permitted in county vehicles; however, law enforcement personnel may transport lawfully confiscated alcoholic beverages.
2. Is the use of tobacco, in any form, prohibited in county-owned vehicles.

Each Department Director will:

1. Provide the Garage Supervisor and [County Manager](#) (or designee) a list of county vehicles assigned for overnight use. This list must include the driver's name and driver's license number.
2. Report to the Garage Supervisor the mileage of each county-vehicle on the first day of each month, no later than the 5<sup>th</sup> day, in order to keep accurate records. Failure to report mileage may result in revocation of an assigned vehicle.
3. Immediately notify the Garage Supervisor and the [County Manager](#) of any driver changes to assigned vehicles. Failure to report driver changes may result in revocation of an assigned vehicle.

Employees assigned county-owned vehicles, using vehicles for commuting to and from work, will comply with the IRS regulation Code Section 61a, which is the commuting rule related to fringe benefits. The Department Director will report the total cost of commuting, per employee, to the [Finance Department](#) by December 15 each year. Subject employees will receive an IRS Form 1099.

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### DRIVER'S RESPONSIBILITIES

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Employees will operate county vehicles in a safe and courteous manner.

Employees will not exceed the speed limit unless in pursuit or emergency. Seat belts will be worn by the driver and all passengers at all times during the operation of county vehicles.

Non-county employees are not allowed to operate or ride in a county-owned vehicle without prior approval from the [County Manager](#). Non-county employees may accompany County employees in County cars when they have an interest in the travel and will supply a copy of their personal insurance card and a valid NC Driver's License. Due to insurance limitations and regulations no other passengers are permitted unless operating in an official capacity.

Employees driving county vehicles are required to have a current driver's license as required by North Carolina General Statutes, regardless of whether the employee drives [The County](#) vehicle on a regular, temporary or occasional basis.

Violations, citations, fines and other actions taken by any police jurisdiction against any employee while driving a county vehicle will be the responsibility of the employee and may be cause for disciplinary action by [The County](#).

Driving records will be evaluated before assignment of a county-owned vehicle or no less than annually based on the North Carolina Division of Motor Vehicles' standards.

Employees assigned county-owned vehicles will:

1. Notify his department director of any points incurred on their driver's license for situations including, but not limited to, accidents, speeding tickets, driving under the influence and driver's license suspensions or revocations. Department director will forward the information to the [County Manager](#) (or designee).
2. Not drive county-owned vehicles if they are using alcoholic beverages or prescription and/or non-prescription drugs which may impair driving ability.
3. Take proper care of the interior and exterior appearance and servicing of county-owned vehicles at the scheduled times and/or every 4,000 miles. Failure to do so may result in disciplinary action. Upholding the maintenance requirement is the responsibility of the department director.
4. Routinely checking for proper oil level, water and antifreeze levels, wear on belts and adequate inflation of tires consistent with specifications in the vehicle manual. The Garage Supervisor will provide training as needed.

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## VIOLATIONS

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Violations of this policy are considered a misuse of county property. Employees misusing or abusing county-owned vehicles may be subject to appropriate disciplinary action, up to and including dismissal.

### **Need Justification:**

County Departments must justify the need for a county-owned vehicle based on whether a vehicle will be used a minimum of 12,000 miles per year. The cost benefit of paying an employee mileage for use of the personal vehicle versus use of a county-owned vehicle must be documented before a county-owned vehicle is considered. Evaluation of the ongoing need for county-owned vehicles assigned to a department will be made on an annual basis before bidding new county vehicles.

The [County Commissioners](#) must approve all new vehicle purchases and requests for a vehicle from the surplus list when that vehicle increases the fleet assigned to a department.

Public Safety and special use vehicles required for a specific job function will be considered based on need, usage and cost-benefits over the life of the vehicle versus mileage limitations.

Each Department Director will send the Garage Supervisor a written request for a vehicle to be classified as "special use." If the request is granted, the vehicle will be coded as "special use" in the vehicle maintenance program.

The [County Manager](#) (or designee) may, at the request of the Garage Supervisor, remove or recall any county-vehicle from a department for one of the following:

1. The vehicle does not meet the minimum mileage requirements, excluding “special use” vehicles.
2. Vehicle abuse, which includes but is not limited to, inadequate care, maintenance and damage to a vehicle caused by disregard or improper use.
3. The termination of an employee or position with an assigned vehicle that will not be replaced within a reasonable time period.
4. A department director may submit a written request to the Garage Supervisor to justify retention of a vehicle removed or recalled because of underutilization.
5. A department will turn in the old vehicle upon receiving a replacement vehicle to prevent unnecessary growth of the fleet. Any exception to this policy requires approval by the [County Commissioners](#).

A department director will complete a vehicle change form in the Garage Services Department for action needed such as purchase, sale, disposal or transfer of vehicle.

### **Accidents**

[The County](#) will have an accident review board, comprised of the following individuals, to evaluate all accidents involving a Graham county-owned vehicle. The review board will assess points based on the North Carolina Division of Motor Vehicle’s standard.

### **Accident Review Board:**

Chairperson: [County Manager](#) (or designee)

Members: Vehicle Maintenance Director, [Sheriff](#) (or Designee), [Human Resources Director](#) (or [County Manager](#)’s Designee), EMS Director, [Health Director](#), Director of Code Enforcement, [DSS Director](#), Transit Director (or designee)

Employees found at fault for an accident in a county-owned vehicle will receive a written warning and if the accident review board deems necessary employee must attend a driving school recommended by the Accident Review Board at the employee’s expense or be terminated.

The Accident Review Board maintains the option to recommend dismissal of an employee based on the severity of accident and/or other circumstances.

Employees will submit to a post-accident drug test, regardless of fault, when one of the following applies: (Ref. County Drug Policy):

1. A fatality results from the accident.
2. One of the vehicles in the accident receives damage.
3. There is an injury demanding medical treatment away from the scene of the accident.
4. There is personal injury requiring immediate medical attention or a worker’s compensation claim is filed.

5. An employee is cited for a moving traffic violation as a result of an accident.

An employee who has been convicted of causing an accident and/or motor vehicle violation(s) resulting in accumulation of six (6) or more points during a three-year period will not be permitted to drive a county-owned vehicle until the points have been reduced or removed from the driver's history.

### **Loaner Fleet**

A small fleet of county-owned vehicles will be available at [The County](#) Garage on an as needed basis for county business use. A mileage charge, determined by the [Finance Director](#), will be charged to the department using county-owned vehicle. Employees must fill the gas tank before returning the vehicle to the garage.

A Department Director must, complete and sign a request form, before an employee may check out a car from the loaner fleet. The employee must provide the completed form to [The County](#) Garage before signing out a county-owned vehicle.

### **Policy**

The Graham County [Human Resources Director](#) (or [County Manager](#)'s Designee) will indiscriminately select employees occupying safety sensitive positions and/or the performance of their job duties require driving on a regular basis who operate county-owned vehicles or heavy equipment to undergo random drug testing. The Graham County [Human Resources Department](#) (or [County Manager](#)'s Designee) will select employees on a random basis. When notified, employee must appear for testing immediately or be subject to termination.

Graham County Department Directors are to acquire and provide to the Safety Officer or [Human Resources Director](#) proof of insurance and proof of an active, current driver's license for any employee who receives a reimbursement for personal vehicle mileage. An employee's personal vehicle insurance is the primary coverage in the event an employee has an accident while performing his duties as a Graham County Employee. [The County](#)'s insurance policy acts as the secondary coverage once the limits are met under an employee's policy. The Internal Auditor will perform random audits of [The County](#) fleet to include, but not limited to, compliance with [The County](#) policy, driver assignments, mileage, vehicle condition, maintenance records, justification forms and compliance with the IRS regulation regarding fringe benefits.

It is the responsibility of the Department Director to administer this County Policy properly in regard to all county vehicles in his department. The method for financing the fleet will be an annual decision made by the [Finance Director](#) and the Garage Supervisor and taken to the [County Commissioners](#) for approval. It is the intention that once vehicles are assigned, they remain with the position based on the justification for the vehicle. If high mileage is an issue, replacement arrangements will be made in advance of the acquisition.

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## **SECTION 5-19. EMPLOYEES SUBJECT TO N.C.G.S. 159**

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The [County Commissioners](#), all department heads, all elected officials and every county employee is subject to the requirements of North Carolina General Statute 159 and [The County](#) policy and procedures established by the Board of Commissioners.

Complying with the law involves accounting to the taxpayers for how their tax dollars are spent. Part of this process is the requirement that all purchases are approved prior to being made and that all contracts be pre-audited by the county [Finance Officer](#) before being entered into. This prior approval and pre-auditing insures that the [Finance Officer](#) has checked a department's budget to guarantee that there are sufficient funds in the budget to cover the purchase.

If an employee, department head, elected official or Board of Commissioner member fails to obtain prior approval for purchase they become personally liable for paying for the purchase. If they fail to have contracts pre-audited they become personally liable for paying for the contract. In addition to being personally liable for failing to obtain prior approval, [Chapter 159](#) of the North Carolina General Statutes also provides that an employee, department head, elected official or Board of Commissioner member who violates the requirements of [Chapter 159](#) may be prosecuted in criminal court for a Class 3 misdemeanor and can be fined up to \$1,000.00 and forfeit his office.

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### **SECTION 5-20. CHECK CASHING POLICY**

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It is the policy of [The County](#) that no personal checks from any source will be cashed at the central depository of [The County](#), which is housed at the Graham County Tax Collector's office.

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### **SECTION 5-21. MOONLIGHTING**

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An employee may hold a job with another organization as long as he satisfactorily performs his job responsibilities with [The County](#). All employees will be judged by the same performance standards and will be subject to [The County](#)'s scheduling demands, regardless of any existing outside work requirements.

Outside employment will not be permitted:

1. If it has an adverse impact on [The County](#). Innocently or knowingly, moonlighters will not use county equipment or resources for outside employment.
2. If you are drawing Worker's Compensation from [The County](#).
3. If you are out on qualified [FMLA](#) (Family Medical Leave Act) with [The County](#).

If [The County](#) determines that an employee's outside work interferes with performance or the ability to meet the requirements of the employee's respective department as they are modified from time to time, the employee may be asked to terminate the outside employment if he wishes to remain with [The County](#).

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### **SECTION 5-22. CHILDREN IN THE WORKPLACE POLICY**

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The presence of children in the workplace with the employee parent during the employee's workday is inappropriate and is to be avoided except in emergency situations. This policy is established to avoid disruptions in job duties of the employee and co-workers, reduce property liability and help maintain the company's professional work environment.

If bringing a child to work with the employee is unavoidable, the employee must contact his supervisor as soon as possible to discuss the situation and obtain permission to have the child accompany the employee while working. Factors the supervisors will consider are the age of the child, how long the child needs to be present, the work environment in the employee's area and any possible disruption to the employee's and co-workers' work. Consideration will not be given to allowing a child with an illness to come to work with the employee.

A child brought to the workplace in unavoidable situations will be the responsibility of the employee and must be accompanied and be under the direct supervision of the employee parent at all times.

## CHAPTER 6. TOBACCO AND ALCOHOL POLICIES

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### SECTION 6-1. TOBACCO INCLUDING E-CIGARETTES POLICY

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Tobacco use including electronic cigarettes (e-cigarettes) in County buildings and vehicles is prohibited. This policy will not be in conflict with other policies that may be adopted by policy-making boards regarding smoking in public places.

Tobacco Ordinance – See Appendix B.

### SECTION 6-2. ZERO TOLERANCE SUBSTANCE ABUSE POLICY

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[The County](#) is firmly committed to maintaining a drug-alcohol-free work environment in order to ensure the safety and welfare of the general public and all county employees and to ensure an efficient and effective workforce. [The County](#) also seeks to aid employees experiencing substance abuse problems by offering rehabilitation opportunities. The [County Manager](#) has the authority to establish, administer and enforce substance-abuse processes and procedures within [The County](#).

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#### POLICY

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County employees are our most valuable resource and it is our goal to provide a safe and healthy working environment which promotes opportunities for growth. In meeting these goals, it is our policy to:

1. Assure that employees are not impaired in their ability to perform assigned duties in a safe, productive and healthy manner;
2. Create a workplace environment free from the adverse effects of substance;
3. Prohibit the unlawful manufacture, distribution, dispensing, possession or use of controlled substances or misuse of alcohol for all employees; and
4. Encourage employees to seek professional assistance anytime personal problems, including substance abuse and alcohol dependency, adversely affects their ability to perform their assigned duties.

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#### PURPOSE

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The purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the [Drug-Free Workplace Act of 1988](#) and the [Omnibus Transportation Employee Testing Act of 1991](#). This policy is also intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs.

The purpose of this policy is also to eliminate endangerment to our employees and the public from the risks posed by the use of illegal drugs, legal drugs not lawfully used or as prescribed, alcohol or any other intoxicant or substance abuse.

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## APPLICABILITY

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This policy applies to all full and part time employees in particular, including all safety-sensitive employees when performing safety sensitive duties which include:

1. The operation of mass transit service including the operation of a revenue service vehicle whether or not the vehicle is in revenue service;
2. Maintenance of a revenue service vehicle or equipment used in revenue service;
3. Security personnel who carry firearms, dispatchers or persons controlling the movement of revenue service vehicles;
4. Any other transit employee who is required to hold a Commercial Driver's License, contract employees and contractors when they are on county property or when performing any business;
5. Maintenance functions include the repair, overhaul and rebuild of engines, vehicles and/or equipment used in revenue service;
6. This policy applies to off-site lunch periods or breaks when an employee is scheduled to return to work; and
7. Visitors, vendors and contractor employees are governed by this policy while on county premises and will not be permitted to conduct business if found to be in violation of this policy.

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## PROHIBITED SUBSTANCES

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"Prohibited substances" addressed by this policy include the following:

### ILLEGALLY USED CONTROLLED SUBSTANCES OR DRUGS

The use of any illegal drug or any substance identified in Schedules I through V of Section 202 of the [Controlled Substance Act \(21 U.S.C. 812\)](#), as further defined by 21 CFR 1300.11 through 1300.15 is prohibited at all times unless a legal prescription has been written for the substance. These include, but are not limited to: marijuana, amphetamines (including methamphetamine and ecstasy), opiates (including heroin), phencyclidine (PCP) and cocaine, as well as any drug not approved for medical use by the [U.S. Drug Enforcement Administration](#) or the [U.S. Food and Drug Administration](#). Illegal use includes use of any illegal drug, misuse of legally prescribed drugs and use of illegally obtained prescription drugs. Also, the medical use of marijuana or the use of hemp related products, which cause drug or drug metabolites to be present in the body above the minimum thresholds is a violation of this policy.

### Legal Drugs

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The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance, which carries a warning label that indicates that mental functioning, motor skills or judgment may be adversely affected, should be reported to a supervisor or to the [Human Resources Officer](#). Supervisors must treat this information as private medical information. In addition, the employee must obtain a written release from the attending physician releasing the person to perform their job duties any time they obtain a performance-altering prescription.

A legally prescribed drug means that individual has a prescription or other written approval from a physician for the use of that drug in the course of medical treatment. It must include the patient's name,

the name of the substance, quantity/amount to be taken and the period of authorization. The misuse or abuse of legal drugs while performing county business is prohibited.

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## ALCOHOL

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The use of substances containing alcohol, including any medication, mouthwash, food or candy or any other substance that causes alcohol to be present in the body, while performing business is prohibited. An alcohol test can be performed any time a covered employee is on duty. The concentration of alcohol is expressed in terms of alcohol per 210 liters of breath as measured by an evidential breath-testing device.

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## PROHIBITED CONDUCT

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### Manufacture, Trafficking, Possession and Use

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County employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession or use of prohibited substances on county premises, vehicles, in uniform or while on county business. Employees who violate this provision will be discharged. Law enforcement will be notified, as appropriate, where criminal activity is suspected.

### INTOXICATION/UNDER THE INFLUENCE

Any employee, including an on-call employee, who is reasonably suspected of being intoxicated, impaired, under the influence of a prohibited substances or not fit for duty will be suspended with pay from job duties pending an investigation and verification of condition. Employees found to be under the influence of prohibited substances or who fail to pass a drug and/or alcohol test will be removed from duty and subject to disciplinary action up to and including termination and legal prosecution. A drug or alcohol test is considered positive if the individual is found to have a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in [49 CFR Part 40](#), as amended. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report to duty. The covered employee will subsequently be relieved of his on-call responsibilities and subject to discipline for not fulfilling his on-call responsibilities.

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### ALCOHOL AND DRUG USE

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No employee:

1. Should report for duty or remain on duty when his ability to perform assigned functions is adversely affected by alcohol or when his breath alcohol concentration is 0.02 or greater regardless of when the alcohol was consumed.
2. Will use alcohol while on duty, in uniform, while performing functions or just before or after performing a function.
3. Will use alcohol within four hours of reporting for duty or during the hours that they are on call. Violation of these provisions is prohibited and punishable by disciplinary action, up to and including termination.
4. Will consume alcohol for eight (8) hours following involvement in an accident or until he submits to the post-accident drug/alcohol test, whichever occurs first.

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## COMPLIANCE WITH TESTING REQUIREMENTS

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All employees will be required to take urine drug testing as a condition of employment and will be subject to urine drug testing as a condition of ongoing employment with [The County](#).

Any employee who refuses to comply with a request for testing will be removed from duty and their employment terminated.

Any employee who is suspected of providing false information in connection with a test or who is suspected of falsifying test results through tampering, contamination, adulteration or substitution will be required to undergo an observed collection. Verification of these actions will result in the employee's removal from duty and their employment terminated.

Refusal can include an inability to provide a sufficient urine specimen or breath sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior or physical absence resulting in the inability to conduct the test.

Consistent with the [Drug Free Workplace Act of 1998](#), all employees are required to notify management of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision will result in disciplinary action as defined in this policy.

#### TREATMENT REQUIREMENTS

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All employees are encouraged to make use of the available resources for treatment for alcohol misuse and illegal drug use problems. Under certain circumstances, employees may be given the option to volunteer to undergo treatment for substance abuse or alcohol misuse to remain employed. Such treatment is at the employee's option and the time in such treatment is not during hours of work. During such treatment, the employee will remain in probationary status and any positive test will result in immediate termination for cause. Any employee who refuses or fails to comply with requirements for treatment, aftercare or return to duty will be subject to disciplinary action, up to and including termination. The cost of any treatment or rehabilitation services will be paid for directly by the employee or their insurance provider.

#### NOTIFYING THE COUNTY OF CRIMINAL DRUG CONVICTION

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All employees are required to notify the [County Manager](#) of any criminal drug statute conviction or statute for driving under the influence within five days after such conviction. Employees who have been charged with any criminal drug statute or driving under the influence must also report any plea agreement to a reduced charge. Employees who have driving as an essential or non-essential duty must report immediately if their license has been suspended temporarily or otherwise. Failure to comply with this provision will result in disciplinary action, up to and including termination.

## PROPER APPLICATION OF THE POLICY

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[The County](#) is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy or who is found to deliberately misuse the policy in regard to subordinates, will be subject to disciplinary action, up to and including termination.

## TESTING PROCEDURES

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Analytical urine drug testing and breath testing for alcohol may be conducted when circumstances warrant or are required by Federal regulations. All employees will be required to take testing prior to employment, for reasonable suspicion, post-accident and at random as defined in Section 6.B, 6.C, 6.D and 6.E of this policy. In addition, all safety-sensitive and non-safety-sensitive employees will be tested prior to returning to duty after failing a drug or alcohol test and after completion of the Substance Abuse Professional's recommended treatment program. Follow-up testing will also be conducted following return to duty for a period of one to five years, with at least six tests performed during the first year. All employees will be subject to testing on a random and unannounced basis.

Testing will be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment and laboratory facilities which have been approved by the [U.S. Department of Health and Human Service](#) (DHHS). All testing will be conducted consistent with the procedures put forth in [49 CFR Part 40](#), as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure and the validity of the test result.

The drugs that will be tested for include marijuana, cocaine, opiates (including heroin), amphetamines (including methamphetamine and ecstasy) and phencyclidine. This list is subject to change at the discretion of the [County Manager](#) and the [County Commissioners](#). Urine specimens will be collected using the split specimen collection method described in [49 CFR Part 40](#).

Each specimen will be accompanied by a Chain of Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. An initial drug screen will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory [Gas Chromatography/Mass Spectrometry](#) (GC/MS) test will be performed. The test will be considered positive if the amounts present are above the minimum thresholds established in [49 CFR Part 40](#), as amended.

The test results from the laboratory will be reported to a Medical Review Officer (MRO). An MRO is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will:

1. Review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive test result.
2. Contact the employee, notify the employee of the positive laboratory result and provide the employee with an opportunity to explain the confirmed test result.
3. Subsequently review the employee's medical history/medical records to determine whether there is a legitimate medical explanation for a positive laboratory result. If no legitimate medical

explanation is found, the test will be verified positive and reported to [The County](#) program manager. If a legitimate explanation is found, the MRO will report the test result as negative.

The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary is positive, the split will be retained for testing if so requested by the employee through the MRO. In such cases where there is reasonable suspicion that the employee is abusing a substance other than the five previously listed, [The County](#) reserves the right to test for additional drugs using standard laboratory testing.

Tests for breath alcohol concentration will be conducted utilizing a [National Highway Traffic Safety Administration](#) (NHTSA)-approved testing device operated by a trained technician. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test will be performed using a NHTSA-approved evidential breath-testing device (EBT) operated by a trained breath alcohol technician (BAT). The EBT will identify each test by a unique sequential identification number. This number, time and unit identifier will be provided on each EBT printout. The EBT printout along with an approved alcohol testing form will be used to document the test, the subsequent results and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by [49 CFR Part 40](#) as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

An employee who has a confirmed alcohol concentration of greater than 0.02 but less than 0.04 will be removed from his position for eight hours unless a retest results in a concentration measure of less than 0.02. The inability to perform duties due to an alcohol test result of greater than 0.02 but less than 0.04 will be considered an unexcused miss out subject to disciplinary procedures, up to and including termination. An alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy and a violation of the requirements set forth in [49 CFR Part 654](#) for safety-sensitive employees.

Any employee that has a confirmed positive drug or alcohol test will be removed from his position, informed of educational and rehabilitation programs available and referred to a Substance Abuse Professional (SAP) for assessment. A positive drug and/or alcohol test will always result in disciplinary action up to and including termination.

[The County](#) affirms the need to protect individual dignity, privacy and confidentiality throughout the testing process. In addition, if at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be cancelled.

#### Employee Requested Testing

Any employee who questions the results of a required drug test under paragraphs 6.B through 6.G of this policy may request that the split sample be tested. This test must be conducted at a different DHHS-certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the original sample. The employee pays all costs for such testing unless the result of the split sample test invalidates the result of the original test.

The method of collecting, storing and testing the split sample will be consistent with the procedures set forth in [49 CFR Part 40](#), as amended. The employee's request for a split sample test must be made to the



MRO within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted if the delay was due to documental facts that were beyond the control of the employee.

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### PRE-EMPLOYMENT TESTING

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All position applicants will undergo urine drug and breath alcohol testing prior to hire. Receipt of a negative drug and alcohol test result is required upon a conditional offer of employment. Failure of a pre-employment drug and alcohol test will disqualify an applicant for employment for a period of at least one year. Evidence of the absence of drug and alcohol dependency from a Substance Abuse Professional that meets with the approval of the company and a negative pre-employment drug and alcohol test will be required prior to further consideration for employment. The cost for the assessment and any subsequent treatment will be the sole responsibility of the individual. A pre-employment/pre-transfer test may also be performed anytime an employee's status changes from an inactive status to an active status (i.e., return from Worker's Comp leave of absence).

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### REASONABLE SUSPICION TESTING

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All covered employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion will mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse. Reasonable suspicion referrals must be made by one or more supervisors who are trained to detect the signs and symptoms of drug and alcohol use and who reasonably concludes that an employee may be adversely affected or impaired in his work performance due to possible prohibited substance abuse or alcohol misuse. A reasonable suspicion alcohol test can only be conducted just before, during or after the performance of a safety-sensitive job function. However, a reasonable suspicion alcohol test may be performed any time the covered employee is on duty. A reasonable suspicion drug test can be performed any time the covered employee is on duty.

1. A written record of the observations which led to a drug/alcohol test based on reasonable suspicion will be prepared and signed by the supervisor making the observation. This written record will be submitted to the [County Manager](#).
2. When there are no specific, contemporaneous, articulable objective facts that indicate current drug or alcohol use, but the employee (who is not already a participant in a treatment program) admits the abuse of alcohol or other substances to a supervisor in his chain of command, the employee will be referred to the SAP for an assessment. The [County Manager](#) will place the employee on administrative leave in accordance with the provisions set forth under this policy. Testing in this circumstance would be performed under the direct authority of the [County Manager](#). Since the employee self-referred to management, testing under this circumstance would not be considered a violation of this policy or a positive test result under Federal authority. However, self-referral does not exempt the covered employee from testing under Federal authority.

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### POST-ACCIDENT

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All covered employees will be required to undergo urine and breath testing if they are involved in an accident with a Graham county-owned vehicle or privately-owned vehicle while on duty regardless of whether or not the vehicle is in an accident that results in a fatality. This includes all surviving covered employees that are operating the vehicle at the time of the accident and any other whose performance cannot be discounted as a contributing factor to the accident.

In addition, a post-accident test will be conducted if an accident results in injuries requiring immediate transportation to a medical treatment facility or one or more vehicles incurs disabling damage, unless the operator's performance can be completely discounted as a contributing factor to the accident.

As soon as practical following an accident, as defined in this policy, the program manager investigating the accident will notify the employee operating the vehicle and all other covered employees whose performance could have contributed to the accident of the need for the test. The supervisor will make the determination using the best information available at the time of the decision.

The appropriate transit supervisor will ensure that an employee, required to be tested under this section, is tested as soon as practicable, as but no longer than eight (8) hours after the accident for alcohol and no longer than 32 hours for drugs. If an alcohol test is not performed within two hours of the accident, the supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within (8) eight hours or the drug test within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test be documented.

Any covered employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident or until he undergoes a post-accident alcohol test.

An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying a supervisor of his location if he leaves the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.

Nothing in this section will be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care. In the rare event that [The County](#) is unable to perform a drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), [The County](#) may use drug and alcohol post-accident test results administered by local law enforcement officials in lieu of the test.

The local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with local law.

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## RANDOM TESTING

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Only safety Sensitive employees will be subjected to random drug testing. The selection of employees will be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of all Graham County employees.

1. The dates for administering unannounced testing of randomly selected employees will be spread reasonably throughout the calendar year, day of the week and hours of the day.

2. The number of employees randomly selected for drug/alcohol testing during the calendar year will be not less than the percentage rates established by Federal regulations for those safety-sensitive employees subject to random testing by Federal regulations. The current random testing rate for drugs established by FTA equals twenty-five percent of the number of covered employees in the pool and the random testing rate for alcohol established by FTA equals ten percent of the number of covered employees in the pool.
3. Each covered employee will be in a pool from which the random selection is made. Each covered employee in the pool will have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection.
4. Covered transit employees that fall under the [Federal Transit Administration](#) regulations will be included in one random pool maintained separately from the testing pool of employees that are included solely under [The County](#) authority.
5. Random tests can be conducted at any time during an employee's shift for drug testing. Alcohol random tests can be performed just before, during or just after the performance of a safety sensitive duty. Testing can occur during the beginning, middle or end of an employee's shift.
6. Employees are required to proceed immediately to the collection site upon notification of their random selection.

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#### INCIDENT/ACCIDENT TESTING

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Any employee involved in an incident or accident occurring while on duty that causes physical harm to themselves or others will be required to undergo drug/alcohol testing unless the employee or operator's performance can be discounted as a contributing factor to the incident or accident. In the event physical damage occurs to [The County](#) property or others, any subject involved will be subject to drug testing/alcohol testing.

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## RETURN-TO-DUTY TESTING

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The County will terminate the employment of any employee that tests positive or refuses a test as specified in this policy. However, in the rare event an employee is reinstated with court order or other action beyond the control of the transit system, the employee must complete the return-to-duty process prior to the performance of safety-sensitive functions.

All covered employees who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol) or both and be evaluated and released by the Substance Abuse Professional before returning to work.

For an initial positive drug test, a Return-to-Duty drug test is required, and an alcohol test is allowed.

For an initial positive alcohol test a Return-to-Duty alcohol test is required and a drug test is allowed.

Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP will recommend the return-to-duty test only when the employee has successfully completed the treatment requirement and is known to be drug and alcohol-free and there are no undo concerns for public safety.

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## FOLLOW-UP TESTING

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Employees will be required to undergo frequent, unannounced urine and/or breath testing following their return to duty. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year. A qualified Substance Abuse Professional will determine the frequency and duration of the follow-up tests beyond the minimum.

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## EMPLOYMENT ASSESSMENT

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Any covered employee that has a verified positive drug or alcohol test will be removed from his position, informed of educational and rehabilitation programs available, referred to a Substance Abuse Professional (SAP) for assessment and will be terminated.

Following a negative dilute, the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.

A positive drug and/or alcohol test will also result in disciplinary action as specified herein.

After receiving notice of a verified positive drug test result, a confirmed alcohol test result or a test refusal, the Graham County Drug and Alcohol Program Manager will contact the employee's supervisor to have the employee cease performing any safety-sensitive function. The employee will be referred to a Substance Abuse Professional and will be terminated.

Refusal to submit to a drug/alcohol test will be considered a positive test result and will result in termination. A test refusal includes the following circumstances when a covered employee:

1. Who consumes alcohol within eight (8) hours following involvement in an accident without first having submitted to post-accident drug/alcohol tests;
2. Who leaves the scene of an accident without a legitimate explanation prior to submission to drug/alcohol tests;
3. Who provides an insufficient volume of urine specimen or breath sample without a valid medical explanation. The medical evaluation will take place within five (5) days of the initial test attempt;
4. Whose urine sample has been verified by the MRO as substitute or adulterated;
5. Fails to appear for any test within a reasonable time, as determined by the employer, after being directed to do so by the employer;
6. Fails to remain at the testing site until the testing process is complete;
7. Fails to provide a urine specimen for any drug test required by Part 40 or DOT agency regulations;
8. Fails to permit the observation or monitoring of a specimen collection;
9. Fails or declines to take a second test the employer or collector has directed you to take;
10. Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process or as directed by the DER as part of the "shy bladder" or "shy lung" procedures;
11. Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector; behave in a confrontational way that disrupts the collection process);
12. Gives a verbal or written declaration, obstructive behavior or physical absence resulting in the inability to conduct the test within the specified time frame;
13. Fails to sign Step 2 of the Alcohol Testing form;
14. Fails to follow the observer's instructions during an observed collection including instructions to raise your clothing above the waist, lower clothing and underpants and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process;
15. Possesses or wears a prosthetic or other device that could be used to interfere with the collection process; and/or
16. Admits to the collector or MRO that you adulterated or substituted the specimen.

An alcohol test result of 0.02 to 0.039 BAC will result in the removal of the employee from duty for eight hours or the remainder of the work day whichever is longer. The employee will not be allowed to return to safety-sensitive duty for his next shift until he submits to an alcohol test with a result of less than 0.02 BAC. If the employee has an alcohol test result of 0.02 to 0.039 two or more times within a six-month period, the employee will be removed from duty and referred to the SAP for assessment and treatment consistent with Section Q of this policy.

In the instance of a self-referral or a management referral, disciplinary action against the employee will include:

1. Mandatory referral to a Substance Abuse Professional for assessment, formulation of a treatment plan and execution of a return to work agreement;
2. Failure to execute or remain compliant with the return-to-work agreement will result in termination from Graham County employment;
3. Compliance with the return-to-work agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; in the

judgment of the SAP, the employee is cooperating with his SAP recommended treatment program; and the employee has agreed to periodic, unannounced follow-up testing as defined in Section P of this policy;

4. Refusal to submit to a periodic unannounced follow-up drug/alcohol test will be considered a direct act of insubordination and will result in termination;
5. A self-referral or management referral to the SAP that was not precipitated by a positive test result does not constitute a violation of the Federal regulations and will not be considered as a positive test result in relation to the progressive discipline defined in Section Q of this policy;
6. Periodic unannounced, follow-up drug/alcohol tests conducted as a result of a self-referral or management referral which results in a verified positive will be considered a positive test result in relation to the progressive discipline defined in Section Q of this policy;
7. A Voluntary Referral does not shield an employee from disciplinary action or guarantee employment with Graham County; and
8. A Voluntary Referral does not shield an employee from the requirement to comply with drug and alcohol testing.
9. Failure of an employee to report within five days a criminal drug statute conviction for a violation occurring in the workplace will result in termination.
10. The consequences specified by [49 CFR Part 40.149 \(C\)](#) for a positive test or test refusal is not subject to arbitration.

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### PROPER APPLICATION OF THE POLICY

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[The County](#) is dedicated to ensuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy or who is found to deliberately misuse the policy in regard to subordinates, will be subject to disciplinary action, up to and including termination.

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### INFORMATION DISCLOSURE

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1. Drug/alcohol testing records will be maintained by the Drug and Alcohol Program Manager and except as provided below or by law, the results of any drug/alcohol test will not be disclosed without express written consent of the tested employee.
2. The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered employees have the right to gain access to any pertinent records such as equipment calibration records and records of laboratory certifications. Employees may not have access to SAP referrals and follow-up testing plans.
3. Records of a verified positive drug/alcohol test result will be released to the Drug and Alcohol Program Manager and other transit system management personnel on a need to know basis.
4. Records will be released to a subsequent employer only upon receipt of a written request from the employee.
5. Records of an employee's drug/alcohol tests will be released to the adjudicator in a grievance, lawsuit or other proceeding initiated by or on behalf of the tested individual arising from the

results of the drug/alcohol test. The records will be released to the decision maker in the preceding.

6. Records will be released to the [National Transportation Safety Board](#) during an accident investigation.
7. Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.
8. Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.
9. Records will be released if requested by a Federal, state or local safety agency with regulatory authority over [The County](#) or the employee.
10. If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40 as amended, necessary legal steps to contest the issuance of the order will be taken.
11. In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA.

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### EMPLOYEE AND SUPERVISOR TRAINING

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1. Every covered employee will receive a copy of this policy and will have ready access to the corresponding federal regulations including [49 CFR Parts 655](#) and [40](#), as amended. All employees will periodically undergo training on the signs and symptoms of drug use, including the effects and consequences of drug use on personal health, safety and the work environment. The training must also include manifestations and behavioral cues that may indicate prohibited substance use.
2. All supervisory personnel or company officials are in a position to determine. Supervisors will periodically participate in reasonable suspicion training on the physical, behavioral and performance indicators of probable drug use and additional reasonable suspicion training on the physical, behavioral, speech and performance indicators of probable alcohol misuse.

Information on the signs, symptoms, health effects and consequences of alcohol misuse are presented below under "Alcohol Fact Sheet".

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## RE-ENTRY CONTRACTS

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Employees who re-enter the workforce must agree to a re-entry contract. That contract may include (but is not limited to):

1. A release to work statement from the Substance Abuse Professional.
2. A negative test for drugs and/or alcohol.
3. An agreement to unannounced, frequent follow-up testing for a period of one to five years with at least six tests performed the first year.
4. A statement of work-related behaviors.
5. An agreement to follow specified aftercare requirements with the understanding that violation of the re-entry contract is grounds for termination.



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## SYSTEM CONTACT

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Any questions regarding this policy or any other aspect of the substance abuse policy should be directed to the following individual(s).

### **Drug and Alcohol Program Manager**

Title: Clerk to the [Board of Commissioners/Human Resources Officer](#)

Address: 12 North Main Street Robbinsville, NC 28771

Telephone Number: (828) 479-7961

### **Drug and Alcohol Assistant Program Manager**

Title: Graham County Transit Director

Address: 201 West Fort Hill Road, Robbinsville, NC 28771

Telephone Number: (828) 479-4129

### **Medical Review Officer**

Title: Medical Review Officer

Address: 681 Cabarrus Ave. West, Concord, NC 28027

Telephone Number: (800) 451-3743

### **Substance Abuse Professional**

Title: Substance Abuse Counselor

Address: 20 Battery Park Avenue, Asheville, NC 28801

Telephone Number: (828) 551-4540

### **HHS Certified Laboratory Primary Specimen**

Name: LABCORP

Address: 1904 Alexander Drive, RTP, NC 27709

Telephone Number: (336) 553-0780 ext. 304

### **HHS Certified Laboratory Split Specimen**

Name: Quest Diagnostics

Address: 1010 Renner Blvd. Lenexa KS, 66219

Telephone Number: (800) 877-7484

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## ALCOHOL FACT SHEET

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Alcohol is a socially acceptable drug that has been consumed throughout the world for centuries. It is considered a recreational beverage when consumed in moderation for enjoyment and relaxation during social gatherings. However, when consumed primarily for its physical and mood-altering effects, it is a substance of abuse. As a depressant, it slows down physical responses and progressively impairs mental functions.

### Signs and Symptoms of Use

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Dulled mental processes

Lack of coordination

Odor of alcohol on breath

Possible constricted pupils

Sleepy or stuporous condition

Slowed reaction rate

Slurred speech

Note: Except for odor, these are general signs and symptoms of any depressant substance.

### HEALTH EFFECTS

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The chronic consumption of alcohol, average of three servings per day of beer (12 ounces), whiskey (1 ounce) or wine (6-ounce glass), over time may result in the following health hazards:

Decreased sexual functioning

Dependency (up to 10 percent of all people who drink alcohol become physically and/or mentally dependent on alcohol and can be termed "alcoholic")

Fatal liver diseases

Increased cancers of mouth, tongue, pharynx, esophagus, rectum, breast and malignant melanoma

Kidney disease

Pancreatitis

Spontaneous abortion and neonatal mortality

Ulcers

Birth defects (up to 54% of all birth defects are alcohol related)

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## SOCIAL ISSUES

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Two-thirds (2/3) of all homicides are committed by people who drink prior to the crime

Two to three percent (2-3%) of the driving population is legally drunk at any one time. This rate is doubled at night and on weekends.

Two-thirds (2/3) of all Americans will be involved in an alcohol-related vehicle accident during their lifetimes.

The rate of separation and divorce in families with alcohol dependency problems is seven (7) times the average.

Forty percent (40%) of family court cases are alcohol related.

Alcoholics are 15 times more likely to commit suicide than are other segments of the population.

More than 60 percent (60%) of burns, 40 percent (40%) of falls, 69 percent (69%) of boating accidents and 76 percent (76%) of private aircraft accidents are alcohol related.

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## THE ANNUAL TOLL

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24,000 people will die on the highway due to the legally impaired driver

12,000 more will die on the highway due to the alcohol-affected driver

15,800 will die in non-highway accidents

30,000 will die due to alcohol-caused liver disease

10,000 will die due to alcohol-induced brain disease or suicide

Up to another 125,000 will die due to alcohol-related conditions or accidents

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## WORKPLACE ISSUES

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It takes one hour for the average person (150 pounds) to process one serving of an alcoholic beverage from the body.

Impairment in coordination and judgment can be objectively measured with as little as two drinks in the body.

A person who is legally intoxicated is six times more likely to have an accident than a sober person is.

## **ADDENDUM TO THE ZERO TOLERANCE SUBSTANCE ABUSE POLICY**

This addendum applies only to the employees of the [Sheriff's Department](#) and the Graham County Jail as set forth below:

In accordance with the rules and regulations of the North Carolina Department of Justice, the results of all drug screenings administered by [The County](#) for the deputies, bailiffs and jailers will be forwarded to the MRO for the purposes of review of drug tests reported by the testing laboratory.

## **DRUG & ALCOHOL POLICY ADDENDUM EFFECTIVE JANUARY 1, 2018**

The United States Department of Transportation (USDOT) – Office of Drug and Alcohol Policy and Compliance (ODAPC) has issued an update to USDOT's drug and alcohol testing regulation (49 CFR Part 40).

The new regulation has been revised and the changes (summarized below) will become effective on January 1, 2018. Therefore, [The County](#) drug and alcohol testing policy is amended as follows:

### **1. CHANGES TO THE DRUG TESTING PANEL**

- a. Four new opioids added to the drug testing panel –
  - i. The USDOT drug test remains a “5-panel” drug test; however, the list of opioids for which are tested will expand from three to seven opioids.
  - ii. The “opioid” category will continue to test for codeine, morphine and heroin; however, the “opioid” testing panel will now be expanded to include four (4) new semi-synthetic opioids:
    1. (1) Hydrocodone, (2) Hydromorphone, (3) Oxycodone and (4) Oxymorphone.
    2. Common brand names for these semi-synthetic opioids include, but may not be limited to: OxyContin®, Percodan®, Percocet®, Vicodin®, Lortab®, Norco®, Dilaudid®, Exalgo®.
- b. ‘MDA’ will be tested as an initial test analyte
- c. ‘MDEA’ will no longer be tested for under the “amphetamines” category.

### **2. BLIND SPECIMEN TESTING**

- a. The USDOT no longer requires blind specimens to be submitted to laboratories.

### **3. ADDITIONS TO THE LIST OF “FATAL FLAWS”**

- a. The following three circumstances have been added to the list of “fatal flaws”:
  - i. No CCF received by the laboratory with the urine specimen.
  - ii. In cases where a specimen has been collected, there was no specimen submitted with the CCF to the laboratory.
  - iii. Two separate collections are performed using one CCF.

### **4. MRO VERIFICATION OF PRESCRIPTIONS**

- a. When a tested employee is taking a prescribed medication, after verifying the prescription and immediately notifying the employer of a verified negative result, the

MRO must then (after notifying the employee) wait five (5) business days to be contacted by the employee's prescribing physician before notifying the employer of a medical qualification issue or significant safety risk.

- b. Specifically, in cases where an MRO verifies a prescription is consistent with the Controlled Substances Act, but that the MRO has still made a determination that the prescription may disqualify the employee under other USDOT medical qualification requirements or that the prescription poses a significant safety-risk, the MRO must advise the employee that they will have five (5) business days from the date the MRO reports the verified negative result to the employer for the employee to have their prescribing physician contact the MRO. The prescribing physician will need to contact the MRO to assist the MRO in determining if the medication can be changed to one that does not make the employee medically unqualified or does not pose a significant safety risk. If in the MRO's reasonable medical judgment, a medical qualification issue or a significant safety risk still remains after the MRO communicates with the employee's prescribing physician or after five (5) business days, whichever is shorter, the MRO must communicate this issue to the employer consistent with 49 CFR Part 40.327.
5. DEFINITIONS
- a. The term "***DOT, the Department, DOT Agency***"
    - i. Modified to encompass all DOT agencies, including, but not limited to, FAA, FRA, FMCSA, FTA, PHMSA, NHTSA, Office of the Secretary (OST) and any designee of a DOT agency.
    - ii. For the purposes of testing under [49 CFR Part 40](#), the USCG (in the Department of Homeland Security) is considered to be a DOT agency for drug testing purposes.
  - b. The term "***Opiate***" is replaced with the term "***Opioid***" in all points of reference.
  - c. The definition of "***Alcohol Screening Device (ASD)***" is modified to include reference to the list of approved devices as listed on ODAPC's website.
  - d. The definition of "***Evidential Breath Testing Device (EBT)***" is modified to include reference to the list of approved devices as listed on ODAPC's website.
  - e. The definition of "***Substance Abuse Professional (SAP)***" will be modified to include reference to ODAPC's website. The fully revised definition includes:
    - i. A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state-licensed or certified marriage and family therapist or drug and alcohol counselor (certified by an organization listed at <https://www.transportation.gov/odapc/sap>) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

NOTE: The revisions listed in this addendum include only those revisions to [49 CFR Part 40](#) which may be referenced in our drug & alcohol testing policy. A list of all the revisions made to [49 CFR Part 40](#) can be found at <https://www.transportation.gov/odapc>.

**Addendum Authorization Date:** January 01, 2018

**Authorized Official (Printed Name):** Kim Crisp, Clerk to the Board, Drug and Alcohol Program  
Manager

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## **CHAPTER 7. SEPARATION, DISCIPLINARY ACTION AND REINSTATEMENT**

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### **SECTION 7-1. TYPES OF SEPARATION**

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All separations of employees from positions in the service of [The County](#) will be designated as one of the following types and will be accomplished in the manner indicated: resignation, reduction in force, disability, retirement, dismissal or death.

### **SECTION 7-2. RESIGNATION**

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An employee who desires to terminate his employment with [The County](#) must give written notice to his immediate supervisor or department head two (2) weeks prior to his last intended day of employment. An employee who does not provide the required notification will have recorded on his service record that he resigned without giving proper notice. An employee who is absent from work three (3) consecutive days without reporting to his supervisor the reason for his absence, will be considered to have terminated his employment without notice and notation to this effect will be recorded on the employee's service record.

A department head may allow an employee to forego working a notice of resignation if it is deemed to be in the best interest of the department. In this event, the employee would not be paid for the hours not worked but would receive pay for accrued annual leave.

### **SECTION 7-3. REDUCTION IN FORCE**

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The [County Commissioners](#) has the authority to call for a reduction in force, with the exception of [DSS](#) and [Health Department](#), whose Department Heads make decisions on these issues according to the personnel manual for Local Government Employees subject to the [State Human Resources Act](#). In the event a reduction in force becomes necessary, consideration will be given to the quality of each employee's past performance as documented by current performance appraisals, if available, the need for the employee's service and seniority in determining those employees to be retained. Employees who are laid off because of reduction in force will be given at least two (2) weeks' notice of anticipated lay-off. No permanent employee will be separated while there are temporary or probationary employees serving in the same class unless the permanent employee is not willing to transfer to the position held by the temporary or probationary employee. Under the provisions of reduction in force, the [County Commissioners](#) has the option to make changes in work time and/or work load to accomplish the reduction. Employees who are laid off because of reduction in force may be allowed to continue the health insurance program under COBRA regulations.

### **SECTION 7-4. RETIREMENT**

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County employees participate in and are eligible to retire under the North Carolina Local Governmental Employees Retirement System. Any employee who is planning to retire must submit a written request to the [County Manager](#)'s office at least one (1) month, but preferably one hundred twenty (120) days, prior to the planned effective retirement date. Those employees retiring from county service will be paid for

annual leave not used at the time of retirement up to the annual allowed amounts of 240.00 hours for general employees required to work 7.50 or 8.00 hours per day and 360.00 hours for [Sheriff](#) and Jail employees required to work 12 hours per day and 720.00 hours for EMS employees required to work 24 hours per day or the employee may request in writing to have all thirty (30) days (240 hours) of accumulated annual leave plus any portion above the thirty days to be converted into sick reserve at retirement “only” for retirement purposes. Any annual leave hours remaining above the amount allowed to be paid will be transferred to the employee’s sick leave account. Employees may apply all unused sick leave to retirement credit, in accordance with N.C.G.S.

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## **SECTION 7-5. DEATH**

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All compensation due to an employee who dies while employed by [The County](#) will be paid to the estate of the deceased employee. The date of death will be used as the date of termination of employment for the purpose of calculating compensation.

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## **SECTION 7-6. DISCIPLINARY ACTIONS**

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It is the intent of the [County Commissioners](#) in establishing this policy to provide county employees a fair, clear and useful tool for correcting and improving performance problems, as well as to provide a process to assist management in handling cases of unacceptable personal conduct. Any disciplinary action taken in accordance with this policy must be for just cause under of the two following bases:

1. Discipline imposed on the basis of unsatisfactory job performance including gross inefficiency; or
2. Discipline imposed on the basis of unacceptable personal conduct.

### **Covered Employees**

This policy applies to employees that have attained career status as defined by law and/or those who have completed their probationary period.

Advisory Note: Disciplinary actions issued for unsatisfactory job performance, including gross inefficiency or for unacceptable personal conduct are all subject to becoming inactive for the purposes of counting towards the number of prior disciplinary actions needed for further disciplinary action after the expiration of an eighteen-month period without additional disciplinary action or if removed by [The County](#) because of the determination that the issue addressed by the warning or other disciplinary action has been resolved.



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## SECTION 7-7. JUST CAUSE FOR DISCIPLINARY ACTION

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### GENERAL PROVISIONS

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#### **What is just cause?**

There are two reasons (just cause) for the discipline or dismissal of employees. These two reasons are:

1. Unsatisfactory job performance, including grossly inefficient job performance and
2. Unacceptable personal conduct

Some actions by an employee may fall under both reasons. No disciplinary action will be invalid solely because the disciplinary action is labeled incorrectly.

#### **When can disciplinary action be taken?**

When just cause exists, any employee, any career state employee, regardless of occupation, position or profession may be warned, demoted, suspended or dismissed by the appointing authority.

#### **What type of disciplinary action can be taken?**

The degree and type of action will be based upon the sound and considered judgement of the employing agency according to this policy.

#### **When just cause exists, the disciplinary actions that can be taken are:**

- Written warning,
- Disciplinary suspension without pay
- Demotion and
- Dismissal.

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### UNSATISFACTORY JOB PERFORMANCE

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#### **What is just cause for unsatisfactory job performance?**

Any work-related performance problem may establish just cause to discipline an employee for unsatisfactory job performance. Just cause for a warning or other disciplinary action for unsatisfactory job performance occurs when an employee fails to satisfactorily meet job requirements.

*Advisory Note:* Factors recommended for consideration.

The determination of unsatisfactory performance is generally made by the supervisor or department head. The supervisor's or department head's determination should be reasonable, proper and factually supported. In determining whether an employee's performance is unsatisfactory job performance, a manager should consider any one or a combination of the factors set forth below:

- The quality of work
- The quantity of work
- Work habits
- Promptness
- The timely performance of work
- Related analysis, decisions or judgement

- The accuracy of the work
- The performance or work plan and the appraisal
- Absenteeism
- Ability to follow instructions, directions or procedures
- The appropriateness of work performed
- Any other factors that, in the opinion of the supervisor, are appropriate to determine whether an employee's performance constitutes unsatisfactory job performance.

What is required before a disciplinary action for unsatisfactory job performance may be taken?

Before the disciplinary actions for unsatisfactory job performance may be taken, the following must occur:

- Warning - before a warning for unsatisfactory job performance the employee must have:
- A current unresolved incident of unsatisfactory job performance.

#### DISCIPLINARY SUSPENSION WITHOUT PAY

Before a disciplinary suspension without pay for unsatisfactory job performance the employee must have:

1. A current unresolved incident of unsatisfactory job performance and
2. At least one prior active warning or other disciplinary action for unsatisfactory job performance or gross inefficiency or unacceptable personal conduct and
3. A pre-disciplinary conference

#### DEMOTION

Before a demotion for unsatisfactory job performance the employee must have:

1. A current unresolved incident of unsatisfactory job performance and
2. At least one prior active warning or other disciplinary action for unsatisfactory job performance or gross inefficiency or unacceptable personal conduct and
3. A pre-disciplinary conference

#### DISMISSAL

Before a dismissal for unsatisfactory job performance the employee must have:

1. A current unresolved incident of unsatisfactory job performance and
2. At least two prior active warnings or other disciplinary actions for unsatisfactory job performance or gross inefficiency or unacceptable personal conduct and
3. A pre-disciplinary conference

**TYPE OF DISCIPLINARY ACTION**

Type of Disciplinary Action	Prior Incidents			
	Employee has: current unresolved incident of unsatisfactory job performance	Employee has: at least one prior active warning (any type) or other active disciplinary action (any type)	Employee has: at least two active warnings (any type) or two other active disciplinary actions (any type) or one active warning and one other disciplinary action (any type)	Pre-Disciplinary Conference
<b>Warning</b>	Required			
<b>Disciplinary Suspensions Without Pay</b>	Required	Required		Required
<b>Demotion</b>	Required	Required		Required
<b>Dismissal</b>	Required		Required	Required

**GROSSLY INEFFICIENT JOB PERFORMANCE/UNACCEPTABLE PERSONAL CONDUCT**

**What is just cause for grossly inefficient job performance?**

Just cause to warn or take other disciplinary action for grossly inefficient job performance exists when job performance is so unsatisfactory that it causes or results in death or serious injury to employees, members of the public or to persons for whom the employees have responsibility.

Just cause to warn or take other disciplinary action for grossly inefficient job performance is also created when job performance is so unsatisfactory that it causes or results in a serious loss of or damage to county property or funds adversely impacting [The County](#), agency and/or the work unit.

**What is just cause for unacceptable personal conduct?**

Just cause to warn or take other disciplinary action for unacceptable personal conduct may be created by intentional or unintentional acts. The conduct may be job related or off duty so long as there is a sufficient connection between the conduct and the employee’s job. Insubordination is a type of unacceptable personal conduct.

**What is required before a disciplinary action for gross inefficiency or unacceptable personal conduct may be taken?**

Before a disciplinary action for gross inefficiency or unacceptable personal conduct may be taken:

**WARNING** – before a warning for grossly inefficient job performance or unacceptable personal conduct the employee must have: a current unresolved incident of grossly inefficient job performance or unacceptable personal conduct.

**DISCIPLINARY SUSPENSION WITHOUT PAY** – before a disciplinary suspension without pay for grossly inefficient job performance or unacceptable personal conduct the employee must have:

- A current unresolved incident of grossly inefficient job performance or unacceptable personal conduct and
- A pre-disciplinary conference

**DEMOTION** – before a demotion for grossly inefficient job performance or unacceptable personal conduct the employee must have:

- A current unresolved incident of grossly inefficient job performance or unacceptable personal conduct and
- A pre-disciplinary conference

**DISMISSAL** – before a dismissal for grossly inefficient job performance or unacceptable personal conduct the employee must have:

- A current unresolved incident of grossly inefficient job performance or unacceptable personal conduct and
- A pre-disciplinary conference

*Advisory Note:* When a pre-disciplinary conference is conducted for a recommended type of disciplinary action, but after the conference the agency decides to take disciplinary action of a lesser degree of seriousness than the one for which the conference was held, it is not required that the agency conduct an additional pre-disciplinary conference as long as the employee was notified and had the opportunity to be heard with respect to the less serious disciplinary action. However, it is permissible for the agency to conduct such an additional pre-disciplinary conference if the agency determines that it would be appropriate under the circumstances or if the employee requests the additional opportunity to be heard. For example: if a pre-dismissal conference is conducted and the agency decides to demote rather than dismiss, it would not be necessary to conduct a pre-demotion conference, unless the agency or employee believes that there are relevant issues that could not have been addressed or were not addressed in the previous pre-dismissal conference or the employee was not notified of the possibility of a lesser degree of disciplinary action.

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## CAUSES OF FAILURES IN PERFORMANCE OF DUTIES

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

1. Demonstrated inefficiency, negligence or competence in performing one's duties.
2. Careless, negligent or improper use of county property or equipment (more serious cases may also be considered to be failure in personal conduct).
3. Physical or mental incapacity to perform duties as determined by a physician or other appropriate medical professional.
4. Discourteous treatment of the public or other employees.
5. Abuse of the county policies and regulations (more serious cases may also be considered to be failure in personal conduct).
6. Habitual pattern of failure to report for duty at the assigned time and place.
7. Failure to obtain or maintain a current license or certificate required as a condition for performing the job.
8. Absence without approved leave.
9. Habitual improper use of sick leave privileges.
10. Failure to follow established policies.
11. Habitual tardiness.

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## CAUSES OF UNACCEPTABLE PERSONAL CONDUCT

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The following causes relating to unacceptable personal conduct are representative, and are not intended to be all inclusive, of those considered to be adequate grounds for suspension or dismissal:

1. Reporting to work under the influence of intoxicants or nonprescription/illegal drugs or using such substances while on County property. This includes prescription drugs if they impair the employee's ability to perform their designated duties.
2. Being absent from work without permission or failure to report to the supervisor/department head when one is absent.
3. Being habitually absent or tardy for any reason.
4. Failure to perform assigned work in an efficient or effective manner.
5. Being wasteful of material, property or working time.
6. Inability to get along with fellow employees so that the work being done is hindered and not up to required level.
7. Conduct on the job, which violates the common decency or morality of the community.
8. Conviction of a felony or gross misdemeanor.
9. Speaking critically or making derogatory or false accusations so as to discredit other employees or supervisors.
10. Removal of County money, merchandise, or property, including property in the custody of the County, without permission.
11. Lying to supervisor, department head in connection with your job.

12. Dishonesty, including giving false information, intentionally falsifying records or making false statements applying for employment.
13. Being on County premises during non-working hours without permission, unless engaged in county business.
14. Divulging or misusing confidential information, including removal from County premises, without proper authorization, any employee lists, records, designs, drawings or confidential information of any kind.
15. Accepting fees, gifts or other valuable items in the performance of the employee's official duties for the County.
16. Inability or unwillingness to perform the assigned job.
17. Falsification of time records for payroll.
18. Abuse of sick leave privileges by reporting sick when not sick or obtaining sick leave pay falsely or under false pretenses.
19. The use of profanity or abusive language towards a fellow employee or member of the general public while performing official duties as a County employee.
20. Discrimination against or harassment of co-workers.
21. Deliberate damage to County property.
22. Fighting or threatening to fight another employee – aggressor only.
23. Misuse of County funds or embezzlement.
24. Participation in any action that would in any way seriously disrupt or disturb the normal operation of a county department or any segment of county government.
25. Placing phone calls to county employees (at work or at home) for the purpose of harassing or forcing dialogue or discussion from the employee or occupants against their will.
26. Trespassing on the home of any county employee for the purpose of harassing or forcing dialogue or discussion from the employee or occupants against their will.
27. Willful damage or destruction of property.
28. Possession of illegal weapons on the job and the open carrying or displaying of firearms (exception – law enforcement) on the job. This covers the illegal possession of all lethal weapons by employees while on the job and also covers the open carrying or displaying of firearms while on the job.
29. Using profane language to threaten-embarrass fellow employees.
30. Brutality in the performance of duties.
31. Refusal to accept a reasonable and proper assignment from an authorized supervisor (insubordination).
32. Acceptance of gifts in exchange for "favors" or "influence".
33. Engaging in incompatible employment or serving a conflicting interest.
34. Violation of political activity restrictions.
35. Conviction of or entry of a plea of "no contest", a misdemeanor that would adversely affect performance of duties, or any felony.

**SECTION 7-8. DISCIPLINARY ACTIONS**

**AVAILABLE FOR UNACCEPTABLE PERSONAL CONDUCT OR GROSSLY  
INEFFICIENT JOB PERFORMANCE**

Type of Disciplinary Action	Prior Incidents			
	Employee has: current unresolved incident of unacceptable personal conduct or gross inefficiency	Employee has: at least one prior active warning (any type) or an active disciplinary action (any type)	Employee has: at least two active warnings (any type) or two active disciplinary actions (any type) or one active warning and one disciplinary action (any type)	Pre-Disciplinary Conference
<b>Warning</b>	Required			
<b>Disciplinary Suspensions Without Pay</b>	Required			Required
<b>Demotion</b>	Require			Required
<b>Dismissal</b>	Required			Required

**DISCIPLINARY PROCEDURES**

**General Provisions**

**Supervisors/Department Heads Role in Discipline**

The supervisor/department head has the duty to review and encourage satisfactory job performance by employees of their work unit. A supervisor/department head also has the duty to address cases of unacceptable personal conduct.

Advisory Note: When a supervisor determines that an employee has violated this policy the supervisor/department head should examine a number of factors to decide the appropriate type of disciplinary action. Among the factors are:

1. Whether the supervisor/department head should recommend disciplinary action based on the facts
2. Whether more investigation is needed to make a recommendation
3. The type and degree of disciplinary action to be taken
4. The employee’s work history
5. The disciplinary actions received by other employees within the agency/work unit for comparable performance or behaviors
6. Other relevant factors

**Supervisors/Department Heads Role in Warnings**

In cases of unsatisfactory job performance, a written warning is the first type of disciplinary action that an employee may receive. After the first unsatisfactory job performance warning, a supervisor/department head may give additional warnings or a higher level of disciplinary action.

The supervisor/department head may give a written warning for grossly inefficient job performance or unacceptable personal conduct. However, this Policy does not require a written warning before management takes other disciplinary action in these types of cases.

**A. Written Warnings - all warnings will:**

1. Be in writing and state that it is a warning.
2. Tell the specific conduct or performance that is the reason for the warning.
3. Tell the specific performance or conduct improvements that must be made.
4. Tell the time within which the employee must show improved performance or conduct. If the Warning does not include an improvement or correction time frame, the time frame is 60 days for unacceptable job performance and immediately for grossly inefficient job performance or unacceptable personal conduct.
5. Tell the consequences of failing to make the required improvements/corrections.
6. Tell the employee of any appeal rights provided by agency policy or state law.

*Advisory Note:* Generally, employees cannot appeal warnings to the County Manager. Agency policies differ on whether an employee may appeal a warning within the agency. All warnings should tell an employee whether they are given appeal rights within agency procedure.

**B. Disciplinary Suspension without Pay**

When can an employee be placed upon disciplinary suspension without pay?

An employee may be suspended without pay for disciplinary reasons for a current incident of unsatisfactory job performance after the receipt of at least one prior disciplinary action or without prior warning or disciplinary action for any form of unacceptable personal conduct or grossly inefficient job performance.

**Length of Time for Disciplinary Suspension**

A disciplinary suspension without pay for an employee who is subject to the overtime compensation provisions of the Fair Labor Standards Act (FLSA) must be for at least on full work day but may not be for more than two work weeks. The length of a disciplinary suspension without pay for an employee who is exempt from the overtime compensation provisions of the FLSA must be for at least one full work week but may not be for more than two full work weeks.

An agency has the option of imposing the same periods of disciplinary suspension without pay upon all employees as long as the period is the same as that for employees exempt from the overtime provisions of the FLSA.



**APPROPRIATE TIME LIMITS FOR PERIODS OF DISCIPLINARY SUSPENSION**

Type of Employee	Minimum Period of	Maximum Period of	Minimum Time Block
<b>Subject to the Overtime Compensation Provisions of the Fair Labor Standards Act</b>	1 day	2 work weeks	Disciplined employee will be suspended for at least 1 day
<b>Exempt from the Overtime Compensation Provisions Fair Labor Standards Act</b>	1 work week	2 work weeks	Disciplined employee may be suspended for a period of 1 or 2 work weeks but no portions of a full work week

**Procedure for a Disciplinary Suspension without Pay**

Before an employee is placed on disciplinary suspension without pay, a supervisor/department head must:

1. Schedule and conduct a pre-disciplinary conference. The supervisor/department head must give advance oral or written notice of the conference to the employee. The notice must tell the employee the type of disciplinary action (disciplinary suspension) being considered, the conference time and location and the facts that led to the recommendation. Advance notice should be as much as practical under the circumstances.
2. Give the employee a statement in writing telling the acts or failure to act that is the reason for the suspension and telling the employee of their appeal rights.

**C. Demotion**

When can an employee receive a demotion?

Any employee may be demoted as a disciplinary measure. Demotion may be made on the basis of either unsatisfactory or grossly inefficient job performance or unacceptable personal conduct. Before the decision to demote an employee for disciplinary reasons, a management representative must conduct a pre-disciplinary conference with the employee in accordance with the procedural requirements of this Policy.

**Unsatisfactory Job Performance**

An employee may be demoted for a current incident of unsatisfactory job performance after the employee has received at least one prior warning or disciplinary action.

**Grossly Inefficient Job Performance**

An employee may be demoted for grossly inefficient job performance without any prior warning or disciplinary action.

**Personal Conduct**

An employee may be demoted for unacceptable personal conduct without any prior warning or disciplinary action.

**DISCIPLINARY DEMOTIONS MAY BE ACCOMPLISHED BY ANY OF THE THREE METHODS BELOW**

Grade Change	Pay Change	Restrictions on Changes
<b>Lowering the grade</b>	Retaining the salary	Salary will not exceed the maximum of the salary schedule for the new lower grade
<b>Lowering the grade</b>	Lowering the salary	Same as above
<b>Retaining the grade</b>	Lowering the salary	Salary will not be less than the minimum of the salary schedule for the grade or special entry rate if in effect

**Procedure for a Demotion**

Before demotion of an employee, a supervisor/department head must:

1. Schedule and conduct a pre-disciplinary conference. They must give advance oral or written notice of the conference to the employee. The notice must tell the employee the type of disciplinary action (demotion) being considered, the conference time and location and the facts that led to the recommendation.
2. Advance notice should be as much as practical under the circumstances;
3. Tell the employee if the demotion will change the employee’s salary rate and/or pay grade and if so what change will occur in the salary rate and/or pay grade;
4. Give the employee a statement in writing telling the acts or failures to act that are the reason for the demotion and telling the employee of their appeal rights.

*Advisory Note:* While this policy authorizes advance oral or written notice of a demotion or a suspension without pay, the better practice is to give the notice in writing so that if there is a dispute about the notice, both the employee and the agency will have documentation of the fact that the notice was given and that the other policy requirements were met.

**D. Dismissal**

**When can an employee be dismissed?**

Any employee may be dismissed. Dismissal may be a result of unsatisfactory or grossly inefficient job performance or unacceptable personal conduct. Before the decision to dismiss for disciplinary reasons is made, a management representative must conduct a pre-disciplinary (dismissal) conference with the employee. The conference must be handled according to this policy.

Unsatisfactory Job Performance – An employee must have at least two prior warnings or other disciplinary actions or one of each before dismissal for a current incident of unsatisfactory job performance.

Grossly Inefficient Job Performance – An employee may be dismissed for a current incident of grossly inefficient job performance without any prior disciplinary actions.

Unacceptable Personal Conduct – An employee may be dismissed for a current incident of unacceptable personal conduct without any prior disciplinary actions.

#### **Required Consultation**

The supervisor/department head recommending dismissal must discuss the recommendation with appropriate agency management. Upon approval by agency management, a pre-disciplinary conference will be held with the employee.

#### **Person Conducting the Pre-Disciplinary Conference**

The person conducting the pre-disciplinary conference must have the authority to recommend or decide what, if any, disciplinary action should be imposed on employee.

### **E. Procedure for Disciplinary Conference**

Before dismissal of an employee, the supervisor/department head must:

- Schedule and conduct a pre-disciplinary conference. They must give advance written notice of the conference to the employee. The notice must tell the employee the type of disciplinary action being considered (dismissal), the conference time and location and the facts that led to the recommendation.

Advance notice should be as much as practical under the circumstances;

- The people that are a part of the conference are:
- The Supervisor/Department Head or other person chosen by agency management to conduct the conference;
- A second management representative may be present at management's discretion;
- The employee;
- If the person conducting the conference chooses, security may be present;
- No attorney will represent either side at the conference.

*Advisory Note:* In addition to the participants in the conference noted above agency policies may provide for one additional neutral party, if the employee and management agree.

#### **During the Conference**

During the conference, the person conducting the conference must:

1. Give to the employee oral or written notice of the recommendation for dismissal including the specific reasons for the proposed dismissal and a summary of the facts supporting the dismissal recommendation.
2. Give the employee an opportunity to respond with information against the recommended dismissal, offer facts that are different from those offered by management and offer facts in support of the employee's case. This policy does not give an employee the right to have witnesses at the conference.

### **Following the Conference**

After the conference, management will:

1. Review and consider the response of the employee and make a decision on the recommended dismissal.
2. Not communicate the decision before the start of the next business day after the conference or after the end of the second business day following the completion of the conference.
3. If management decides to dismiss, the employee will receive a written letter of dismissal either in person or by certified mail with return receipt requested. The letter must include:
  - a. The reason for the dismissal.
  - b. The effective date of the dismissal.
  - c. The employee's right to appeal.

The effective date of the dismissal will be no sooner than the date of the written notice and no later than 14 calendar days after the written notice. When dismissal is for unsatisfactory job performance, management may give an employee pay in lieu of the 14-day notice or any part of that notice.

### **Failure to Follow Procedure**

Failure to give written reasons for dismissal, written notice of appeal rights or to conduct a pre-dismissal conference is a procedural violation. If an agency fails to follow procedure, the agency will be subject to the rules of the Commission dealing with procedural violations.

The time for filing a grievance as a result of the dismissal does not start until the employee received a written notice of any applicable appeal rights.

### **Dismissal Letter – Public Information**

If an employee is dismissed and appeals his dismissal through the agency grievance procedure, the final agency decision will set forth the specific acts or omissions that are the basis for the employee's dismissal. In addition, the employee will be informed in the final agency decision letter that the final agency decision letter is a public record and that the agency is required by law to release it pursuant to any public record requests.

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## **SECTION 7-9. SPECIAL PROVISIONS**

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### **Investigatory Placement with pay**

How do you place an employee on investigatory status?

Management must notify an employee in writing of the reasons for investigatory placement not later than the second scheduled workday after the beginning of the placement. An investigatory placement with pay may last no more than thirty calendar days without approval of extension by the agency and the [Human Resources Director](#). When an extension beyond the thirty-day period is required, the agency must advise the employee in writing of the extension, the length of the extension and the specific reasons for the extension. If no action has been taken by an agency by the end of the thirty-day period and no further extension has been granted, the agency must either take appropriate disciplinary action on the basis of the findings upon investigation or return the employee to active work status. Under no circumstances is it permissible to use placement on investigation status for the purpose of delaying an administrative

decision on an employee's work status pending the resolution of a civil or criminal court matter involving the employee.

What are the reasons to place an employee on investigatory status with pay?

An employee may be placed on investigatory status with pay only:

1. To investigate allegations of performance or conduct deficiencies that would constitute just cause for disciplinary action;
2. To provide time within which to schedule and conduct a pre-disciplinary conference; or
3. To avoid disruption of the work place and/or to protect the safety of persons or property.

### **Credentials**

By statute, regulation and administrative rule, some duties assigned to positions in [The County](#) service may be performed only by persons who are duly licensed, registered or certified as required by the relevant law or policy. All such requirements and restrictions are specified in the statement of essential qualifications or recruitment standards for classifications established by the State Human Resources Commission.

### **Obtaining and Maintaining Credentials**

Employees in such classifications are responsible for obtaining and maintaining current, valid credentials as required by law, rule or regulation. Failure to obtain or maintain the legally required credentials constitutes a basis for immediate dismissal without prior warning, consistent with dismissal for unacceptable personal conduct or grossly inefficient job performance. An employee who fails to obtain or maintain legally required credentials may be dismissed without prior warning following a pre-disciplinary conference. An employee dismissed on this basis will be given a written letter of dismissal with the specific reason for the dismissal and written notice of the right of appeal.

### **Falsification of Credentials**

Falsification of employment credentials or other documentation in connection with securing employment constitutes just cause for disciplinary action. When credential or work history falsification is discovered after employment with [The County](#), disciplinary action will be administered as follows:

1. If an employee was determined to be qualified and was selected for a position based on falsified work experience, education, registration, licensure or certification information that was a requirement of the position, the employee may be dismissed without prior warning following a pre-disciplinary conference. An employee dismissed on this basis will be given a written letter of dismissal with the specific reason for the dismissal and written notice of the right of appeal.
2. In all other cases of post-hiring discovery of false or misleading information, disciplinary action will be taken, but the severity of the disciplinary action will be at the discretion of [The County](#).
3. When credential or work history falsification is discovered before employment with [The County](#), the applicant will be disqualified from consideration for the position in question.

### **Right of Appeal**

Every disciplinary action will include notification to the employee in writing of any applicable appeal rights.

### **Grievances**

Warnings and placement on investigation with pay are not grievable unless a county specifically provides such a grievance in its grievance policy. Absent an allegation of violation of [N.C.G.S.126-25](#), warnings are not appealable to the State Human Resources Commission.

[The County](#) will furnish to the employee, as an attachment to the written documentation of any grievable disciplinary action, a copy of [The County](#) grievance procedure.

### **Waiver of Appeal Rights**

If a warning or disciplinary action is grievable within [The County](#) or and the employee fails to timely grieve the warning or disciplinary action, the employee is deemed to have waived the right to contest the validity of a warning or disciplinary action.

### **Transfer of Disciplinary Action**

When an employee transfers to another department, any active written warnings or disciplinary actions will transfer with the personnel file of the employee and will remain in full force at the new work department unit until removed by the new employer or made inactive by operation of this policy.

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## **SECTION 7-10. POLICY RESPONSIBILITIES**

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[The County](#) will through the supervisor or director:

1. Assure the satisfactory performance of work assigned by an employee of the work unit. The supervisor's determination is presumed to be reasonable and factually supported.
2. Maintain acceptable personal conduct of each employee.
3. Impose a disciplinary action when in the judgment of the supervisor or director the employee has engaged in conduct or performance prohibited by this policy.

During the investigation of an employee, the department head, [County Manager](#), [DSS Director](#), [Health Director](#), as applicable, may suspend the employee without pay for the duration of the proceedings as a non-disciplinary action. Prior to placing an employee on a non-disciplinary suspension, the authorized authority will consult with the [Human Resources Director](#). The investigation must involve matters that may form the basis for disciplinary suspension, demotion or dismissal in order for the non-disciplinary suspension to be allowed. Full recovery of pay and benefits for the period of non-disciplinary suspension will be provided if the suspension is terminated with full reinstatement of the employee. A non-disciplinary suspension may not exceed two (2) weeks without further action. Further action may consist of additional days of suspension to accommodate further investigation. In no case will the total days of non-disciplinary suspension exceed six (6) weeks without a final decision on the matter.

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## **SECTION 7-11. DISCIPLINARY ACTIONS TOWARD TEMPORARY AND PROBATIONARY EMPLOYEES**

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Temporary and probationary employees serve at the pleasure of [The County](#). If such an employee fails to perform satisfactorily, upon the recommendation of the department head, [County Manager](#), [DSS Director](#), [Health Director](#), as applicable, he may be demoted or dismissed at any time without further notice and without the right of appeal or grievance, except when the employee alleges discrimination based on race, sex, religion, color or national origin. See Chapter 3.

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### **SECTION 7-12. RIGHT OF APPEAL**

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An employee may appeal disciplinary action taken against him through [The County](#)'s grievance procedure as described in Chapter 8 of this manual. See [Chapter 8](#) for exceptions.

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### **SECTION 7-13. REINSTATEMENT**

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An employee who is separated because of reduction in force is given priority consideration for filling job vacancies and may be reinstated with full benefits, if the length of the period of separation is less than the previous continuous period of employment, with the approval of the [County Manager](#). An employee who is reinstated will be credited with previous service and previously accrued sick leave and will receive all benefits provided in accordance with the policy. The salary paid a reinstated employee will 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.

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### **SECTION 7-14. DISCRIMINATION**

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Any county employee who has reason to believe that promotion, training or transfer was denied him or that demotion, layoff or termination of employment was forced upon him because of his age, sex, race, color, national origin, religion, 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), will have the right to appeal directly to the [County Manager](#). An employee must appeal an alleged act of discrimination within fifteen (15) days of the alleged discriminatory action. No employee will be subjected to any form of discrimination or coercion as a result of having exercised his right to file a grievance.

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### **SECTION 7-15. MAINTENANCE OF RECORDS**

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All documentation, records and reports will be retained for a minimum of three (3) years and will be held in the employee's permanent file in the HR Director's office. These records will be subject to review by the grievant, the employee's department head, the [County Manager](#) or other appointing authority and the [County Commissioners](#).

## CHAPTER 8. EMPLOYEE GRIEVANCE POLICY

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### SECTION 8-1. POLICY

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It is the policy of Graham County Government that a grievance process exists to allow for prompt, fair and orderly resolution of grievances arising out of employment.

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#### OBJECTIVES

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In establishing this Employee Grievance Policy, the [County Commissioners](#) seeks to achieve the following objectives:

- Provide procedural consistency across [The County](#);
- Ensure employees have access to grievance procedures to address grievable issues timely, fairly and without fear of reprisal; and
- Resolve workplace issues efficiently and effectively.

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#### GRIEVABLE ISSUES AND WHO MAY GRIEVE

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The following tables list all issues that may be grieved by an applicant for employment, a probationary employee or former probationary employee and a career employee or former career employee.

The following issues may be grieved at the agency level only.

Applicant for employment (initial hire, promotion or reemployment)

- Denial of request to remove inaccurate and misleading information from applicant file (excludes the contents of a performance appraisal and written disciplinary action)

Probationary employee or former probationary employee

- Denial of request to remove inaccurate and misleading information from personnel file (excludes the contents of a performance appraisal and written disciplinary action).

In addition to the grievable issue listed above, a career employee or former career employee may also grieve the following issue.

Career employee or former career employee

Overall performance rating of less than “meets expectations” or equivalent.

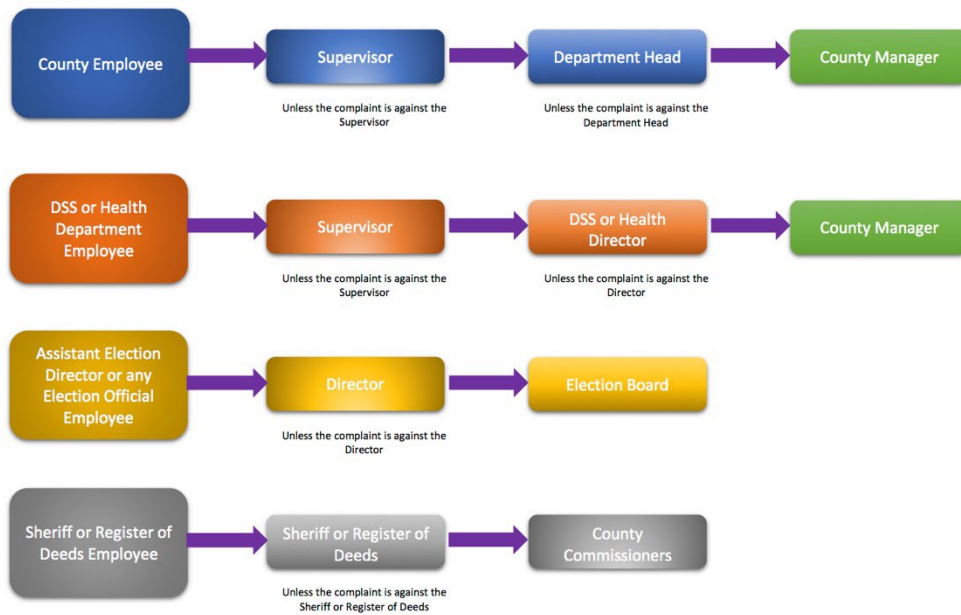
The following issues must first be grieved through the internal grievance process. If the grievant is not satisfied with the Final Agency Decision, the grievant may appeal to the Office of Administrative Hearings.



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# GRIEVANCE PROCEDURE FOR COUNTY EMPLOYEES FLOW CHART

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## SECTION 8-2. WHO MAY FILE

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Applicant for employment (initial hire, promotion or reemployment):

1. Denial of hiring or promotional opportunity due to failure to post position (unless hiring opportunity is not required to be posted by law).
2. Denial of veteran's preference as provided by law.
3. Unlawful discrimination or harassment based on race, religion, color, national origin, sex, age, disability, genetic information or political affiliation if the applicant believes that he has been discriminated against in his application for employment.
4. Retaliation for protesting (objecting to or supporting another person's objection to) unlawful discrimination based on race, religion, color, national origin, sex, age, disability, genetic

information or political affiliation if the applicant believes that he has been retaliated against in his application for employment.

Probationary employee or former probationary employee:

1. Denial of hiring or promotional opportunity due to failure to post position (unless hiring opportunity is not required to be posted by law).
2. Denial of veteran's preference as provided by law.
3. Any retaliatory personnel action for reporting improper government activities ("whistle blower").
4. Unlawful discrimination or harassment based on race, religion, color, national origin, sex, age, disability, genetic information or political affiliation if the employee believes that he has been discriminated against in the terms and conditions of employment.
5. Retaliation against an employee for protesting (objecting to or supporting another person's objection to) unlawful discrimination based on race, religion, color, national origin, sex, age, disability, genetic information or political affiliation if the employee believes that he has been retaliated against in the terms and conditions of employment.

In addition to the grievable issues listed above, a career employee or former career employee may also grieve the following issues. Career employee or former career employee:

1. Dismissal, demotion or suspension without pay for disciplinary reasons without just cause.
2. Involuntary non-disciplinary separation due to unavailability.
3. Denial of reemployment or hiring due to denial of reduction-in-force priority as required by law ([N.C.G.S. 126-7.1](#)).
4. Denial of promotional opportunity due to failure to give priority consideration for promotion to a career employee as required by law ([N.C.G.S. 126-7.1](#)).

Career employee is defined by [N.C.G.S. 126-1.1](#) as follows: "a State employee or an employee of a local entity who is covered by this Chapter pursuant to [N.C.G.S. 126-5\(a\)\(2\)](#) who:

1. Is in a permanent position with a permanent appointment, and
2. Has been continuously employed by the State of North Carolina or a local entity as provided in [N.C.G.S. 126-5\(a\)\(2\)](#) in a position subject to the North Carolina [Human Resources Act](#) for the immediate 12 preceding months."

### **SECTION 8-3. GRIEVANCE PROCESS FOR ALL GRIEVABLE ISSUES**

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A grievance or complaint must be filed within 15 calendar days of the alleged event or action that is the basis of the grievance. Any grievance or complaint that alleges unlawful discrimination, harassment or retaliation will be addressed and completed through [The County](#) Informal Inquiry process before being considered in the formal internal grievance process. Except as provided herein, all other grievable issues must first be discussed with the immediate or other appropriate supervisor in the employee's chain of command or other appropriate personnel that has jurisdiction regarding the alleged event or action that is the basis of the grievance prior to filing a formal grievance. Disciplinary action grievances as well as non-disciplinary separation due to unavailability will proceed directly to the formal internal grievance process.

Disciplinary action grievances (i.e., dismissal, suspension without pay, demotion) that include both an allegation of unlawful discrimination, harassment or retaliation and an allegation that the disciplinary action lacks just cause will first be addressed through [The County](#) Informal Inquiry process before proceeding to the formal internal grievance process. Likewise, a grievance that involves both a separation due to unavailability and an allegation of unlawful discrimination, harassment or retaliation will be addressed through [The County](#) Informal Inquiry process before proceeding to the formal internal grievance process. After [The County](#) Informal Inquiry process is completed, all grievable issues remaining (including that an unresolved disciplinary action lacks just cause or that an unresolved separation due to unavailability was improper and any unresolved allegations of unlawful discrimination, harassment or retaliation) may be considered in the formal grievance process if pursued by the employee as per the procedures below.

### **SECTION 8-4. COUNTY INFORMAL INQUIRY FOR UNLAWFUL DISCRIMINATION, HARASSMENT OR RETALIATION**

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An applicant for employment, probationary employee, former probationary employee, career employee or former career employee (hereafter referred to as complainant) alleging unlawful discrimination, harassment or retaliation will first file a complaint with the agency Equal Employment Opportunity Officer or Affirmative Action Officer (the Graham County [Human Resources Director](#)) within 15 calendar days of the alleged discriminatory or retaliatory act that is the basis of the complaint. If the complainant alleges facts that would constitute unlawful discrimination, harassment or retaliation as prohibited by law, the complaint will be investigated as a part of [The County](#) Informal Inquiry. The investigation will determine if the facts support a finding that there is reasonable cause to believe the alleged act rises to the level of unlawful discrimination, harassment or retaliation.

[The County](#) has 45 calendar days from receipt of the complaint to investigate and respond to the complainant, unless the complainant and the employer mutually agree in writing to extend the time due to occurrences that are unavoidable or beyond the control of either party. Any extension will not exceed 15 calendar days.

At the conclusion of the investigation, the agency will communicate the outcome of the investigation in writing to the complainant. If there is reasonable cause to believe that unlawful discrimination, harassment or retaliation occurred, management will take appropriate action to resolve the matter. If the complaint is successfully resolved, the complainant will sign a letter of agreement with [The County](#) detailing the terms of the resolution. [The County](#) will ensure that the terms of the agreement under the

control of the department are implemented. If the complaint is not successfully resolved, then the complainant may continue the process by filing a formal grievance within 15 calendar days of the written response from the Informal Inquiry.

At any point in the grievance process, the complainant/grievant has the right to bypass discussions with or review by the alleged offender. Time spent in [The County](#) Informal Inquiry is not a part of the formal internal grievance process.

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## **SECTION 8-5 EXTERNAL FILING OF A DISCRIMINATION CHARGE**

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The complainant alleging unlawful discrimination, harassment or retaliation has the right, at any time, to bypass or discontinue [The County](#) Informal Inquiry or the formal internal grievance process and file a charge directly with the [Equal Employment Opportunity Commission \(EEOC\)](#). The complainant may not, however, file a contested case with the Office of Administrative Hearing if the internal process has not been completed.

Information about filing an EEOC charge and deadlines for filing the charge can be found at: <http://www.eeoc.gov/employees/charge.cfm> or by calling the EEOC regional offices located in Raleigh, Greensboro and Charlotte at 1-800-669-4000.

Information about filing through the Civil Rights Division of the Office of Administrative Hearings can be found at: <http://www.ncoah.com/civil/> or by calling 1-919-431-3036.

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## **SECTION 8-6. SIMULTANEOUS INTERNAL AND EXTERNAL FILING OF A DISCRIMINATION CHARGE**

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An applicant for employment, probationary employee, former probationary employee, career employee or former career employee may file simultaneously with the [Equal Employment Opportunity Commission](#) at any point in either [The County](#) Informal Inquiry or the formal internal grievance process.

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## **SECTION 8-7. INFORMAL DISCUSSION**

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A request for an Informal Discussion must occur within 15 calendar days of the alleged event or action that is the basis of the grievance. Prior to filing a grievance about any issue, excluding unlawful discrimination, harassment or retaliation, disciplinary actions and non-disciplinary separation due to unavailability, the employee will first discuss the grievable issue with the immediate or other appropriate supervisor in the employee's chain of command or other appropriate personnel or agency that has jurisdiction regarding the alleged event or action that is the basis of the grievance.

The employee must clearly declare to the supervisor or other appropriate personnel that the Informal Discussion request is regarding an alleged event or action that is the basis of a potential grievance. The supervisor or other appropriate personnel will confirm the intention of the requested Informal Discussion with the employee before beginning discussions.

The informal process will be completed within the 15-day calendar day timeframe. However, if progress is being made toward a successful resolution to the dispute or if there are occurrences that are

unavoidable or beyond the control of either party, both parties may agree to an extension. This extension must be agreed to in writing and approved by HR and will not exceed 15 calendar days.

The supervisor will notify [Human Resources](#) when an employee requests an Informal Discussion. The supervisor or other appropriate personnel is responsible for attempting to resolve the grievable issue with the employee. [Human Resources](#) will serve as a resource during these discussions and will work with both parties to strive for a timely resolution.

The outcome of the Informal Discussion will be communicated to the employee and [Human Resources](#) by the supervisor and other appropriate personnel in writing. If the issue is not successfully resolved or if no written response is provided within the 15-calendar day timeframe, the employee may proceed by filing a formal grievance. Time spent in the Informal Discussion is not a part of the formal internal grievance process.

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### **SECTION 8-8. GRIEVANCE PROCESS FOR DISCIPLINARY ACTION**

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Disciplinary action grievances, to include dismissal, demotion, suspension without pay, as well as non-disciplinary separation due to unavailability will bypass the Informal Discussion and proceed directly to the formal internal grievance process.

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### **SECTION 8-9. FORMAL INTERNAL GRIEVANCE PROCESS**

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The employee must begin the formal internal grievance process by filing a written grievance to the Human Resources Director or designee within the agency in accordance with the Employee Grievance Policy. The employee must complete any of the required informal processes and file within 15 calendar days of the alleged event or action that is the basis of the grievance. Mediation in Step 1 in the internal grievance process.

## **SECTION 8-10. STEP 1 - MEDIATION**

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Mediation is the process in which a grievant and an agency respondent use a neutral third party(s) to attempt to resolve a grievance. Mediation provides the grievant and the agency respondent an opportunity to openly discuss the grievance in a neutral environment with the goal of reaching a mutually acceptable resolution.

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### **MEDIATION PROCESS**

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[The County](#) maintains a process to assign mediators to grievances upon county request. [The County](#) will submit the request for mediation within 3 business days of receipt of the grievance. The mediation process will be concluded within 35 calendar days from the filing of the grievance unless the grievant and the agency mutually agree to extend the time due to occurrences that are unavoidable or beyond the control of either party. Any extension of Step 1 will not extend the 90-day calendar day timeline.

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### **LOCATION AND TIME ALLOCATION**

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Mediation will be conducted in a location identified by the agency and approved by The County Mediation Director or designee. The mediation will be scheduled for an amount of time determined by the mediator(s) to be sufficient. Mediation may be recessed by the mediator(s) and reconvened at a later time.

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### **APPROVED MEDIATORS**

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Mediators will not be selected from the agency requesting the mediation.

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### **MEDIATION ATTENDEES**

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- The grievant who initiated the grievance;
- The designated agency representative serving as the respondent who has the authority to negotiate an agreement, as appropriate, on behalf of the agency; and
- [The County](#) appointed mediator(s).

Attorneys and other advisors may not attend the mediation. Either party may ask for a recess at any time in order to consult with an attorney or other advisor.

Emergency substitution of a mediator must be approved by the [County Manager](#), as directed by the [County Commissioners](#) or designee. The County Mediation Director or designees may attend mediations as observes.

Audiotape, videotape, recording devices transmission devices are not permitted during the mediation.

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## POST MEDIATION

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When an agreement is reached, the following will occur:

1. The grievant and the respondent will sign a Mediation Agreement that states that terms of agreement and is a legally binding document.
2. The original signed Mediation Agreement is provided to the agency [Human Resources Department](#). A copy of the signed Mediation Agreement is provided to the grievant, respondent and The County Mediation Director.
3. The agency will ensure that terms of the mediation agreement under the control of the agency are implemented.

When an agreement is not reached (impasse), the following will occur:

1. The grievant and the respondent will sign a Notice of Impasse stating that the mediation did not result in an agreement.
2. The original signed Notice of Impasse is provided to the agency [Human Resources Department](#). A copy of the signed Notice of Impasse is provided to the grievant, the respondent and The County Mediation Director.
3. At the end of the mediation session, the agency will inform the grievant of the Step 2 grievance process and that the filing must be received by the agency within 5 calendar days of the date of mediation.

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## LIMITATIONS ON A MEDIATION AGREEMENT

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The Mediation Agreement will serve as a written record and will:

1. Not contain any provision(s) contrary to County [Human Resources](#) policies, administrative rules and applicable State and Federal law;
2. Not contain any provision(s) that exceeds the scope of the parties' authority; and
3. Not be transferable to another County agency.

When mediation resolves a grievance but it is determined upon agency review that one or more provisions of the Mediation Agreement do not comply with [The County Human Resources Commission](#) policies or rules or applicable State or Federal laws, the mediation will be reconvened to resolve the specific issue(s). If the parties are unable to resolve the noncompliance issue(s), the mediation will impasse and the grievant may proceed to Step 2 of the internal grievance process.

Should additional information or clarification be needed to effectuate the terms of the agreement, communication with all parties may occur telephonically. In the event that the mediator who facilitated the mediation is not available, The County Mediation Director or designee will have the authority to stand in place of the mediator in these communications.

## CONFIDENTIALITY OF DOCUMENTS PRODUCED IN MEDIATION

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All documents generated during the course of mediation and any communications shared in connection with mediation are confidential to the extent provided by law.

## MEDIATION AGREEMENT APPROVAL

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The approval of the [Human Resources Director](#) or designee is required for mediation agreements that need a personnel transaction to be processed, except where the only personnel action is the substitution of resignation for dismissal. If a mediation agreement involves an exception to County Human Resource Commission Policy, the approval of the Chairman of the [County Commissioners](#) or designee is required.

## GRIEVANT RESPONSIBILITIES

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The grievant is responsible for:

1. Attending the mediation as scheduled by the agency;
2. Notifying and receiving approval from [Human Resources](#), in advance of the scheduled mediation, if occurrences that are unavoidable or beyond the control of the grievant prevent attendance at the mediation;
3. Preparing for the mediation by being able to orally present clear and concise information regarding the issues surrounding the grievance and the remedies sought; and
4. Making a good faith effort to resolve the grievance.

A grievant who has an unexcused failure to attend mediation as scheduled forfeits the right to proceed with the internal grievance process.

## RESPONDENT RESPONSIBILITIES

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The respondent is responsible for:

1. Attending the mediation as scheduled by the agency;
2. Notifying [Human Resources](#), in advance of the scheduled mediation, if occurrences that are unavoidable or beyond the control of the respondent prevent attendance at the mediation;
3. Preparing for the mediation by becoming knowledgeable regarding the issues surrounding the grievance and remedies sought; and
4. Making a good faith effort to resolve the grievance.

## AGENCY HUMAN RESOURCES RESPONSIBILITIES

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The agency is responsible for:

1. Administering the mediation program within the agency;
2. Appointing an agency mediation coordinator and other personnel as needed, to manage and schedule mediations;
3. Ensuring that the grievant receives appropriate information about the mediation process;



4. Designating a qualified and informed agency representative to serve as the respondent for each mediation who will have the authority to negotiate an agreement, as appropriate, on behalf of the agency that resolves the grievance;
5. Ensuring that the selected respondent is adequately prepared for the mediation and has had discussions with management and [Human Resources](#) to identify possible areas of negotiation for grievance resolution;
6. Ensuring appropriate personnel (management, [Human Resources](#) and/or legal counsel) are available to respond to any issues that may arise during the course of the mediation;
7. Designating appropriate personnel to be available to review the terms of the draft agreement to ensure it is complete and contains the necessary information for implementation;
8. Ensuring confidentiality of the mediation to the extent provided by law;
9. Confidentiality of the mediation to the extent provided by law;
  - confidentiality of the mediation to the extent provided by law;
  - Identifying suitable locations for mediations;
  - Using only approved mediator(s) for each mediation session;
  - Reimbursing mediators for travel at state-approved rates;
  - Providing nominees for consideration who meet the qualifications set forth by HR to be trained as HR mediators; and
  - Working with agency management to obtain funding for the initial and ongoing training of agency nominated mediators.

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#### OFFICE OF STATE HUMAN RESOURCES RESPONSIBILITIES

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**(For employees governed by the State Human Resources Office only - [Department of Social Services \(DSS\)](#), [Emergency Management Director](#) and [Health Department](#))**

The Office of State Human Resources is responsible for:

- Developing and maintaining mediation procedures and forms;
- Establishing mediator eligibility and training requirements;
- Maintaining a pool of qualified mediators;
- Providing employment mediation training;
- Maintaining a process for assigning mediators upon agency request;
- Ensuring that mediators adhere to the OSHR Mediator Code of Conduct; and
- Conducting ongoing studies/analyses to evaluate program effectiveness.

## **SECTION 8-11. STEP 2 – HEARING**

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### **HEARING OFFICER OR HEARING PANEL PROCESS**

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If mediation does not result in a resolution at Step 1, the grievant is entitled to proceed to Step 2 of the internal grievance process. Human Resources will notify the grievant of the opportunity to present the grievance orally to a reviewer(s) outside of the grievant chain of command, e.g.

### **HEARING OFFICER OR HEARING PANEL**

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The hearing process will be concluded within 35 calendar days of filing Step 2 of the grievance process unless the grievant and the agency mutually agree to extend the time due to occurrences that are unavoidable or beyond the control of either party. Any extension of Step 2 will not extend the 90-calendar day timeline.

### **RIGHT TO CHALLENGE APPOINTED HEARING OFFICER OR HEARING PANEL MEMBERS**

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The grievant will have one opportunity to challenge the appointed Hearing Officer or up to 2 members of the Hearing Panel if the grievant believes they cannot render an unbiased recommendation due to a real or perceived conflict of interest. The grievant must submit the basis for the challenge in writing. Management will review the challenge and replace the Hearing Officer or Hearing Panel members as appropriate.

### **HEARING ATTENDEES**

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- The grievant who initiated the grievance;
- The Hearing Officer or Hearing Panel members;
- Witnesses giving testimony, as approved by the Hearing Officer or Hearing Panel Chair and;
- Appropriate agency and HR representatives.

Attorneys and other advisors may not attend the hearing. Either party may ask the Hearing Officer or the Hearing Panel Chair for a recess at any time in order to consult with an attorney or other advisor.

Audiotape, videotape, recording devices and transmission devices are not permitted during the hearing except as approved by management.

### **GRIEVANCE PRESENTED TO HEARING OFFICER OR HEARING PANEL**

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The Hearing Officer or Hearing Panel Chair will preside over the hearing to allow the parties to present information relevant to the nature of the grievance, facts upon which the grievance is based and the remedies sought. Each party will be given a fair opportunity to present evidence on the issues to be heard and to question witnesses.

### **PROPOSED RECOMMENDATION FOR FINAL AGENCY DECISION**

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The Hearing Officer or Hearing Panel Chair will draft a proposed recommendation, including an explanation and justification to support the recommendation, for a Final Agency Decision. The proposed recommendation will be submitted to the Agency Head or designee and the [Human Resources Officer](#) or designee within the 35-calendar day timeframe for the Step 2 hearing process. The Agency Head may provide a memorandum with comments on the proposed recommendation to the [Human Resources Officer](#) or designee.

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### OFFICE OF THE HUMAN RESOURCES REVIEW

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The [Human Resources Officer](#) or designee will review the proposed recommendation for a Final Agency Decision based on established criteria. The Officer or designee may approve as written or may provide recommendations for modification or reversal within 10 calendar days of the receipt of the proposed recommendation. The proposed Final Agency Decision will not become final or be issued until reviewed and approved by the [Human Resources Officer](#) or designee.

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### FINAL AGENCY DECISION

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The agency will issue the Final Agency Decision to the grievant within 5 calendar days of receipt of the [Human Resources Officer](#) review of the proposed recommendation. The Final Agency Decision will be issued in writing within 90 calendar days of the initial filing of the grievance. The Final Agency Decision will include information about applicable appeal rights.

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### SETTLEMENT APPROVAL

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The approval of the [Human Resource Officer](#) or designee is required for settlements that need a personnel transaction to be processed, except where the only personnel action is the substitution of a resignation for a dismissal. If a settlement involves an exception to [The County](#) policy, the approval of the [Human Resources Officer](#) or designee is required.

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### HEARING RESPONSIBILITIES

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#### Grievant Responsibilities

1. Attending the hearing as scheduled by the agency;
2. Notifying and receiving approval from [Human Resources](#), in advance of the scheduled hearing, if occurrences that are unavoidable or beyond the control of the grievant prevent attendance at the hearing; and
3. Preparing for the hearing by being able to present clear and concise information regarding the issues surrounding the grievance and remedies sought.

A grievant who has an unexcused failure to attend a hearing as scheduled forfeits the right to proceed with the internal grievance process.

#### Hearing Officer/Hearing Panel Chair Responsibilities

1. Calling the hearing to order and establishing the process for the proceedings;

2. Maintaining order and decorum;
3. Ensuring that all parties are allotted adequate time to present evidence and question witnesses; and
4. Submitting a proposed recommendation for a Final Agency Decision.

Agency Human Resources Responsibilities

1. Establishing the use of either a Hearing Officer or a Hearing Panel;
2. Administering the hearing process within the agency;
3. Ensuring that all parties receive appropriate information about the hearing process;
4. Establishing a process for the grievant to challenge the appointed Hearing Officer or Hearing Panel members; and
5. Consulting with Hearing Officer or Hearing Members on the proposed Final Agency Decision recommendation.

**(For employees under the State Human Resources Act)  
Appeal to the Office of Administrative Hearings**

Agency Requirements to Notify Grievant of Appeal Rights

The Final Agency Decision will inform the grievant in writing of any applicable appeal rights through the Office of Administrative Hearings for contested case issues. The grievant must be informed of the following:

1. The appeal is made by filing a “Petition for a Contested Case” hearing with the Office of Administrative Hearings;
2. The appeal to the Office of Administrative Hearings must be filed within 30 calendar days after the grievant receives the Final Agency Decision; and
3. A fee is charged for filing a Petition for a Contested Case Hearing.

Grievant Access to the Office of Administrative Hearings

If the grievant has completed the internal grievance process and is not satisfied with the Final Agency Decision, the grievant may file a Petition for Contested Case Hearing in the Office of Administrative Hearings in cases where the grievable issue may be appealed. An Administrative Law Judge will conduct a hearing and render a Final Decision.

A Petition for Contested Case Hearing must be filed within 30 calendar days after the grievant receives the Final Agency Decision. The grievant may file the appeal at the Office of Administrative Hearings:

(Physical Address) 1711 New Hope Church Road, Raleigh, NC 27609

(Mailing Address) 6714 Main Service Center, Raleigh, NC 27699-6700  
(919) 431-3000

Hearing procedure requirements and filing form (OAH Form H-06A) can be obtained from the Office of Administrative Hearings at: <http://www.ncoah.com/hearings/> or by calling (919) 431-3000.

RESPONSIBILITIES FOR THE EMPLOYEE GRIEVANCE POLICY

Agency [Human Resources](#) Responsibilities

1. Adhere to the Employee Grievance Policy as adopted by the [County Commissioners](#);
2. Develop and communicate internal grievance procedures as needed;
3. Provide current employees and new hires with access to the Employee Grievance Policy;
4. Notify all employees of any change to the internal agency grievance process no later than 30 calendar days prior to the effective date of the change;
5. Enter all grievance data in The County HR System as events occur; and
6. Provide employee grievance data to the [County Commissioners](#) as requested.

**(For employees under the [State Human Resources Act](#))**

Office of State Human Resources Responsibilities

1. Present the Employee Grievance Policy to the State Human Resources Commission for approval at any time modifications are made;
2. Provide consultation and technical assistance to agencies as needed; and
3. Conduct ongoing studies/analyses to evaluate policy effectiveness.

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**SECTION 8-12. MAINTENANCE OF RECORDS**

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All documentation, records and reports will be retained for a minimum of three (3) years and will be held in the employee's permanent file in the HR Director's office. These records will be subject to review by the grievant, the employee's department head, the [County Manager](#) or other appointing authority and the [County Commissioners](#).

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**SECTION 8-13. OTHER REMEDIES PRESERVED**

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The existence of the grievance procedure does not preclude any individual from pursuing any other remedies available under law.

## **CHAPTER 9. ANNUAL LEAVE/SICK LEAVE/HOLIDAY LEAVE**

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ELECTED OFFICIALS – Elected Officials will not earn annual or sick leave. [The County](#) will bank any sick hours that the Elected Official wishes to transfer over from their previous employer, evidenced by supporting documentation, in order to track this information if they choose to transfer it to a new employer at the end of their term of office or to use the hours as creditable service for retirement purposes.

RECORDKEEPING – All recordkeeping of annual leave/sick leave will be maintained by the [Human Resource Officer](#) and the Payroll Administrator.

### **SECTION 9-1. PAID HOLIDAYS OBSERVED**

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[The County](#) will follow the State’s paid holiday schedule for each year unless otherwise adopted by the [County Commissioners](#). Paid holidays are not a legal requirement, but are a benefit provided at the discretion of each employer for full time employees. Full-time permanent employees will begin receiving holiday pay after the 60-day probationary period. The following holidays and such others as the [County Commissioners](#) may designate, will be observed by county offices and will be counted as hours worked:

<b>Holiday</b>	<b>Number of Days Off</b>
<b>New Year's Day</b>	1
<b>Martin Luther King, Jr.'s Birthday</b>	1
<b>Good Friday</b>	1
<b>Memorial Day</b>	1
<b>Independence Day</b>	1
<b>Labor Day</b>	1
<b>Veteran's Day</b>	1
<b>Thanksgiving</b>	2
<b>Christmas</b>	3

The Thanksgiving holiday (two days) is always Thanksgiving Day (Thursday) and the day after (Friday). The Christmas holiday (three days) will depend on which day of the week it falls on and is determined annually by the [County Commissioners](#).

Employees who wish to use leave for religious observances must request leave from their respective department heads. The departments head will attempt to arrange the work schedule so that an employee may be granted annual leave for the religious observance. Annual leave for religious observance may be denied only when granting the leave would create an undue hardship for [The County](#).

The holiday schedule will be prepared by The County Clerk at the beginning of each fiscal year. Two schedules will be maintained one for General Employees and the other for Public Safety Employees ([Sheriff](#), EMS, Sanitation and Dispatch).

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## **SECTION 9-2. EFFECT OF HOLIDAYS OR OTHER TYPES OF PAID LEAVE**

Regular holidays which occur during a vacation, sick or other paid leave period of any employee of [The County](#) will not be charged as vacation, sick or other paid leave.

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## **SECTION 9-3. WHEN WORK IS REQUIRED ON HOLIDAYS**

Employees who work the standard number of hours per week and are required to work on a regularly scheduled holiday will be paid for hours worked in addition to holiday pay. Part-time employees in safety sensitive positions that are required to work a holiday will be paid for hours worked in addition to holiday pay. Department managers should try to limit part-time employees from having to work holidays as much as possible. Department managers will cover holidays in cases of emergency.

**SECTION 9-4. ANNUAL LEAVE**

1. [The County](#) provides annual leave to all full-time employees which are effective after sixty (60) days from the hire date.
2. Employees may be required to keep a minimum of annual leave hours as determined by the [County Manager](#).
3. Each full-time or probationary county employee working a thirty-seven and one half (37.5) or forty (40) hour work week will earn annual leave as follows: Part-time employees do not earn annual leave or sick leave (with the exception of those that were grandfathered in by the [County Commissioners](#)).

Years of Service	37.5 or 40-hour employees hours earned/month	Sheriff /Jail / 911 hours earned/month	EMS hours earned/month
<b>Less than 2 years</b>	6 hours 40 minutes	8 hours 30 minutes	12.00
<b>2 but less than 5</b>	8.00	10.15	14.25
<b>5 but less than 10</b>	10.00	12.50	18.00
<b>10 but less than 15</b>	12.00	15.20	21.35
<b>15 but less than 20</b>	14.00	17.55	25.10
<b>20 but less than 25</b>	16.00	20.50	28.45
<b>25 years or more</b>	18.00	22.00	30.00

*\*\*Annual leave earned will be computed beginning with employee’s accrual date.*

1. Employees may accumulate a maximum of thirty (30) days of annual leave. Effective on the last payroll of the calendar year, any county employee with accrued annual vacation leave in excess of 30 days or 240 hours (360 hours for [Sheriff](#) and Jail employees and 720 for EMS employees) will have this leave converted to sick leave reserve. This converted sick leave will be used in the same manner as accrued sick leave and may be used for authorized sick leave purposes with the [County Commissioners](#) prior approval. And, like regular sick leave, any unused converted sick leave may be counted toward creditable service at retirement with thirty (30) days (240 hours) or any portion thereof counting as one month of service. The employee may request in writing to have all thirty (30) days (240 hours) of accumulated annual leave plus any portion above the thirty days to be converted into sick reserve at retirement “only” for retirement purposes.
2. Annual leave may be taken as earned by the employee subject to the approval of the department head. Use of annual leave may be denied if the use thereof creates an undue hardship on the employee’s respective department. Saturdays, Sundays and holidays falling within the normal vacation period will not be considered as part of vacation leave. Annual leave may not be used in a holiday week or pay period (for [Sheriff](#) and detention employees) to cause an employee to receive more hours’ pay than the employee would have normally been scheduled to work for that particular week or pay period.

Any compensatory time earned by an employee will be taken prior to using the annual leave account. [See Compensatory Policy.](#)



Annual (vacation) leave may be used for rest, relaxation, for medical and legal appointments and for absences due to adverse weather conditions (unless otherwise specified-see [Adverse Weather](#)).

Time taken off by employees using approved leave with pay will be counted as time worked for the purpose of annual leave accumulation.

Habitual use of annual leave will not be tolerated by the [County Commissioners](#). Any such abuse will be subject to disciplinary action up to and including termination.

Upon separation only will a lump sum of vacation leave time be given to an employee. The separations include: Resignation, Dismissal, Death, Reduction in Force or Leave without pay. The lump sum will not exceed (30) thirty days of accumulated vacation leave. Any excess vacation leave will be rolled over to sick reserve.

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## SECTION 9-5. SICK LEAVE

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Sick leave with pay is not a right that an employee may demand, but a privilege granted for the benefit of an employee when sick. Sick leave will begin after (60) days from the hire date, at which point employees will accrue 8 hours per month, not to exceed 96 hours.

Sick leave is a privilege and is not legally required. Employees are encouraged to save sick leave for emergencies. Abusing the privilege of sick leave could lead to a lower performance evaluation and may lead to disciplinary measures.

Employees may be required to keep a minimum of sick leave hours as determined by the [County Manager](#). Employees may be granted sick leave for absence due to the following:

1. Sickness or bodily injury of the employee that prevents them from performing their regular duties and/or medical or dental appointments of the employee.
2. Sickness or bodily injury of an employee's immediate family member and/or medical or dental appointments for an immediate family member that meets the [FMLA](#) definitions and limits. For purposes of the use of sick leave in general, immediate family members will be defined as employee's spouse, child, stepchild, parent, step-parent, in-laws, sibling, grandchild, grandparent and great-grandparent.
3. An employee absent due to a temporary disability may be required to provide a doctor's certificate to verify the employee's period of temporary disability for these reasons. **An employee may use the equivalent of 3 days of sick leave without a doctor's excuse but not consecutively in a calendar year. When an employee uses less than a full day of sick leave it will be counted against these three days until such time as the three days are exhausted.**
4. Exposure to a contagious disease when continuing work might jeopardize the health of others.
5. Death in the employee's immediate family (the employee's spouse, parent, child, sibling, guardian, grandchild grandparent and great-grandparent, as well as the various combinations of half, step, in-law and adopted relationships that can be derived from those family members named herein) not to exceed three (3) days for any one occurrence. Additional leave time, under exceptional circumstances, may be authorized by the [County Manager](#) and/or department head.

6. To supplement [Workers' Compensation](#) disability leave both during the waiting period before [Workers' Compensation](#) benefits begin and afterward to supplement the remaining salary, except that employees may not exceed their regular salary amount using this provision.
7. Qualifying [FMLA](#) event.

Employees must notify their immediate supervisor (i.e., the [County Manager](#), department head or supervisor) of all requests for sick leave before the leave is taken or no later than (30) minutes prior to the scheduled worktime. Sick leave may only be taken with the approval of the immediate supervisor. Failure to notify and/or obtain approval appropriately may result in disciplinary action up to and including termination. Three (3) consecutive days of absences without proper notification to the [County Manager](#), department head or supervisor will be considered a voluntary resignation.

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### SICK LEAVE: ACCRUAL RATE AND ACCUMULATION

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Each regular employee occupying a permanent full-time regularly-established, budgeted position will earn sick leave on a per pay period basis, at the rate of 96 hours per calendar year. Sick leave earned will be computed beginning with employee's accrual date.

***Any compensatory time earned by an employee will be taken prior to using the sick leave account.***

Effective on the last payroll of the calendar year, any county employee with accrued sick leave in excess of twenty (20) days (160 hours) will have this leave converted to sick leave reserve, as defined in Section 9-4. Annual Leave.

Sick leave earned monthly is allowed as creditable service at the time of retirement to employees who are members of the North Carolina Local Government Employees Retirement System. One month of credit is allowed for each twenty (20) days of unused sick leave when an employee retires and an additional month is credited for any part of twenty (20) days unused sick leave left over. Refer to the North Carolina Local Government Employees Retirement System (LGERS) manual for full details regarding sick leave allowed as credible service.

All sick leave accumulated by an employee will end and terminate without compensation when the employee resigns or is separated from [The County](#), except as stated in the LGERS manual for employees retiring.

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### SICK LEAVE: MEDICAL CERTIFICATION

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The employee's Department Head or the [County Manager](#), will require a statement from the physician specifying the nature of the employee's or immediate family member's illness and the employee's capacity to resume duties, for each occasion on which an employee uses sick leave or whenever the supervisor observes a pattern of absenteeism. At the expiration of an authorized sick leave period, the [County Manager](#) may require a physical and/or mental examination. The employee may be required to submit to such medical examination or inquiry as the [County Manager](#) deems necessary. The Department Head will be responsible for the application of this provision to the end that:

1. Employees will not be on duty when they might endanger their health or the health of other employees; and

2. There will be no abuse of leave privileges.

Claiming sick leave under false pretenses to obtain a day off with pay will subject the employee to disciplinary action up to and including termination.

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### **SICK LEAVE: TRANSFER FROM OTHER GOVERNMENTAL AGENCIES**

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**FOR RETIREMENT PURPOSES ONLY**, unused sick leave earned from another North Carolina state or local governmental agency and/or entity will be accepted and transferred to [The County](#) as follows:

1. Verification received in days will be calculated and accepted in hours reverting to the nearest whole.
2. Verification of accumulated sick leave must be received in writing from previous employer.
3. The transfer must be completed within three (3) years from the employee's last workday with the previous employer.

If an employee is terminated for any reason, no sick leave will be paid to the employee. If an employee who falls under the [State Human Resources Act](#) transfers to another governmental agency, the accrued sick leave can be transferred from [The County](#) to that agency upon request by the employee and the new employer. Sick leave can never be given for monetary gain; its only purpose is for retirement credit only.

A comprehensive list of Creditable Service Employers under the [State Human Resources Act](#) can be found at [nc.gov/ncoshr](http://nc.gov/ncoshr).

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### **SECTION 9-6. FAMILY AND MEDICAL LEAVE ACT (FMLA)**

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In compliance with the Family and Medical Leave Act of 1993, ([FMLA](#)) and as amended, all employees who have been employed with [The County](#) at least twelve months and who have worked at least 1,250 hours in the previous 12-month period for [The County](#) are eligible for [FMLA](#) leave for the circumstances identified below as provided by 29 CFR Part 825.

**[FMLA](#) WILL RUN CONCURRENTLY WITH ALL VACATION, SICK, COMPENSATORY AND WORKER'S COMPENSATION LEAVE. ALL ACCRUED LEAVE MUST BE USED FIRST AND WILL BE COUNTED TOWARD THE 12 WEEKS OF [FMLA](#) LEAVE.**

**If the employee is on continuous [FMLA](#) Leave without pay the employee will not accrue annual leave, sick leave nor receive holiday pay.**

**THE EMPLOYEE WILL USE COMPENSATORY TIME FIRST; THEN SICK LEAVE; THEN ANNUAL LEAVE.**

**Twelve-month period defined:** Need not be consecutive months; employment periods prior to a break in service of seven years or more will not be counted unless the break is occasioned by the employee's fulfillment of his National Guard or Reserve military obligation (as protected under the USERRA); or a written agreement exists concerning [The County](#)'s intention to rehire the employee after a break in service. (For more information, see special rules for returning reservists under USERRA.)

[The County](#) will use a 12-month period measured forward from the first date of [FMLA](#) leave for the employee. The next 12-month period would begin the first time [FMLA](#) leave is taken after completion of the prior 12-month period. [FMLA](#) Leave may be taken:

1. for the birth of a child,
2. the placement of a child in the employee's home through adoption or foster care;
3. to care for the employee's spouse, child or parent (not including in-laws) who has a serious health condition;
4. or a serious health condition that makes the employee unable to perform his job; or
5. qualifying military exigency leave; and
6. in addition, [FMLA](#) allows eligible employees to take up to 26 weeks in a single 12-month period to care for a parent, child or next of kin who is a covered military service member with a serious illness or injury incurred in the line of active duty.

A serious health condition is defined as an illness, injury, impairment or physical or mental condition that involves either:

1. Inpatient care (i.e., an overnight stay) in a hospital, hospice or residential medical-care facility, including any period of incapacity (i.e., inability to work, attend school or perform other regular daily activities) or subsequent treatment in connection with such inpatient care; or
2. Continuing treatment by a health care provider which includes a period of incapacity lasting more than three consecutive, full calendar days and any subsequent treatment or period of incapacity relating to the same condition, that also includes: treatment two or more times by or under the supervision of a health care provider (i.e., in person visits the first visit within 7 days and both within 30 days of the first day of incapacity); or
3. One treatment by a health care provider (i.e., an in-person visit within 7 days of the first day of incapacity) with a continuing regimen of treatment (e.g., prescription, medication, physical therapy); or
4. Any period of incapacity related to pregnancy or for prenatal care. A visit to the health care provider is not necessary for each absence; or
5. Any period of incapacity or treatment for a chronic serious health condition that continues over an extended period, requires periodic visits (at least twice a year) to a health care provider may involve occasional episodes of incapacity. A visit to a health care provider is not necessary for each absence; or
6. A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. Only supervision by a health care provider is required, rather than active treatment; or
7. Any absences to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three days if not treated.

[FMLA](#) leave may be requested for any eligible reason. [The County](#) may designate otherwise qualified leave as paid or unpaid. [The County](#) may retroactively designate 12-week entitlement if it learns after the leave begins or after the fact that such leave qualified as [FMLA](#).

An employee taking leave for the birth of a child may use paid sick leave for the period based on medical certification. The employee will then use all paid vacation for the remainder of the 12-week period. If a

husband and wife both work for [The County](#) and each wish to take leave for the birth of a child, adoption or placement of a child in foster care or to care for a parent (not parent in-law) with a serious health condition, the husband and wife together may only take a combined two weeks for adoption or foster care, must conclude within 12 months of the birth or placement. Leave is limited to a combined total of 26 weeks if it is to care for a covered service member with a serious injury or illness.

Employees are required to exhaust accrued paid leave and shared leave, if eligible, prior to taking leave without pay for purposes normally eligible for paid leave. However, paid leave for non-FLMA eligible purposes will not count against the 12 weeks of [FMLA](#) leave. For example, employees may take up to 3 days of sick leave for a death in the immediate family. This paid leave would not count toward the 12 weeks of unpaid [FMLA](#) leave.

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### FMLA: MEDICAL CERTIFICATION

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The employee is required to provide 30 days advance notification of the need to use unpaid [FMLA](#) leave, when the leave is foreseeable. If the leave is foreseeable, less than 30 days in advance, the employee must provide notice as soon as practicable—generally the same or next business day. When the need for leave is not foreseeable, the employee must provide notice to the employer as soon as practicable under facts and circumstances of the particular case.

In order to qualify for leave for circumstances 3 and 4, medical certification is required. The certification form will be provided with the eligibility notice by the [Human Resources Department](#). A doctor's statement is not sufficient. The certification form provided by eligibility form, complete and sufficient. If it includes the employee's own health condition, it should state that the employee is unable to perform the essential functions of his position. For a seriously ill family member, the certification must include a statement that the patient requires assistance and the employee's presence would be beneficial or desirable. In the event there is need to clarify or authenticate medical certification for a serious health condition, a [Human Resources](#) representative will be the point of contact for appropriate health care providers if the health care provider refuses to provide a medical release. While providing a medical release is not required, if the health care provider does not verify or clarify the information, the [FMLA](#) leave will be denied, and the absence charged as unauthorized.

The employee is expected to return to work at the end of the leave period stated in the medical certification unless he has requested additional time in writing under [The County](#)'s Leave without Pay policy. Failure to return to work after the expiration of the leave will be considered a resignation.

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### FMLA: RETENTION AND CONTINUATION OF BENEFITS AND MEDICAL CERTIFICATION

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#### Insurance Benefits:

An employee's health coverage will be maintained during [FMLA](#) leave at the same level and status as during regular work periods. An employee must arrange for his normal share of cost when taking [FMLA](#) leave (i.e. payroll deduction for dependent coverage or any portion of their own coverage the employee is normally responsible for). An employee failing to return to work, for reasons other than a continued serious health condition, will be required to reimburse [The County](#) for the employee's health insurance

premiums during the [FMLA](#) leave period. All payments for health coverage will be sent to the [County Manager](#)'s attention at the address as listed: the [County Manager's Office](#), 12 North Main Street, Robbinsville, NC 28771.

Other voluntary insurance and payroll deductions are the responsibility of the employee and the employee must make those payments for continued coverage of that benefit. All payments for voluntary insurance and payroll deduction payments are to be sent to the [County Manager](#)'s attention at the address as listed: the [County Manager's Office](#), 12 North Main Street, Robbinsville, NC 28771.

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### FMLA: JOB RETENTION

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Otherwise qualified employees taking [FMLA](#) leave must be returned to the same or equivalent position, including status, pay, benefits and other employment terms, upon returning to work. The position will be the same or one that entails substantially equivalent skill, effort, responsibility and authority. Employees will not lose seniority or seniority-based benefits.

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### FMLA: MILITARY LEAVE ENTITLEMENTS

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Amendments to the [FMLA](#) by the National Defense Authorization Act (NDAA), Public Law 110-181, expanded the [FMLA](#) to allow eligible employees to take up to 12 weeks of job-protected leave in an applicable 12-month period for any "qualifying exigency" arising out of the fact that a covered military member is on covered active duty or have been notified of an impending call or order to covered active duty. The NDAA also amended the [FMLA](#) to allow eligible employees to take up to 26 weeks of job-protected leave in a "single 12-month period" to care for a covered parent, spouse, child or next of kin service member with a serious injury or illness. These two new types of [FMLA](#) leave are known as the military family leave entitlements.

**Qualifying Exigency Leave:** [The County](#) will grant an eligible employee up to a total of 12 workweeks of unpaid leave during the normal 12-month period established for [FMLA](#). Under the terms of the statute, qualifying exigency leave is available to a family member of a military member in the Armed Forces, to include National Guard or Reserves.

Qualifying exigencies include: Issues arising from a covered military member's short notice deployment for a period of seven days from the date of notification; military events and related activities sponsored or promoted by the military, military service organizations or the American Red Cross that are related to the covered active duty or call to covered active duty status of a of a covered military member; certain childcare and related activities arising from the covered active duty or call to covered active duty status of covered military members; making or updating financial and legal arrangements to address a covered military member's absence; attending counseling provided by someone other than a health care provider for oneself, the covered military member; or the child of the covered military member, taking up to five days of leave for rest and recuperation to spend time with covered military member who is on short time R&R during deployment; attending to certain post-deployment activities, including attending arrival ceremonies, reintegration briefings and events and other official ceremonies or programs sponsored by the military for a period of 90 days following the termination of the covered military member's covered active duty status and addressing issues arising from the death of a covered military member.

Covered active duty means, in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and in the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty.

**Notice of the Need to Take Qualifying Exigency Leave:** An employee must provide notice of the need for qualifying exigency leave as soon as practicable. If the leave is foreseeable, [Human Resources](#) should be notified on the same day or the next business day. If the need for leave is unforeseeable, an employee must comply with normal call-in procedures when calling in absent.

**Certification for Qualifying Exigency Leave:** Upon request for leave, an employee will be required to provide a certification of qualifying exigency for military family leave (Form WH-384) and supporting documents as listed on the Form WH-384. A certification will be required for each individual qualifying exigency arising out of the same call to duty.

**Military Caregiver Leave:** An employee who is a spouse, son, daughter, parent, covered service member or next of kin of a covered service member with a serious injury or illness may be granted up to a total of 26 workweeks of paid or unpaid leave during a “single 12-month period” to care for the service member. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status or is otherwise on the temporary disability retired list, for a serious injury or illness or a veteran who is undergoing medical treatment, recuperation or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation or therapy.

A serious injury or illness is one that was incurred by a member of the Armed Forces, including a member of the National Guard or Reserves in the line of duty on active duty in the Armed Forces and that may render the service member medically unfit to perform the duties of his office, grade, rank or rating. In the case of a veteran, who was a member of the Armed Forces, including a member of the National Guard or Reserves, means a qualifying injury or illness that was incurred by a member in the line of duty on active duty in the Armed Forces or existed before the members active duty and was aggravated by service in the line of duty on active duty in the Armed Forces and that manifested itself before or after the service member became a veteran. The [FMLA](#) “serious health condition” does not apply to this leave. The “single 12-month period” for leave to care for a covered service member with a serious injury or illness begins on the first day the employee takes leave for this reason and ends 12 months later, regardless of the 12-month period established by the employer for other types of [FMLA](#) leave. An eligible employee is limited to a combined total of 26 workweeks of leave for any [FMLA](#)-qualifying reason during the “single 12-month period.”

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### MILITARY CAREGIVER CERTIFICATION REQUIREMENTS

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Same notice requirements as applies to [FMLA](#) leave for serious health condition of an employee or of an employee’s immediate family member.

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### CERTIFICATION REQUIREMENTS FOR MILITARY CAREGIVER

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Pursuant to 29 CFT 825.310 (b) and (c), medical certifications for military caregiver leave will ask information sufficient to establish the employee's need for leave, including the following facts:

1. A statement of medical facts regarding the service member's health condition, specifically, facts relating to whether the injury or illness renders the service member medically unfit to perform the duties of his military office, grade, rank or rating and whether the member is receiving medical treatment, recuperation or therapy;
2. Information sufficient to establish that the service member is in need of care;
3. A description of the care to be provided to the service member and an estimate of the leave needed to provide the care; and
4. The relationship of the employee to the service member. Certification of the need for military caregiver leave will be subject to the same time requirements as [FMLA](#) leave.

Acceptable documents in lieu of the Certification Form WH-385 for military caregiver leave are invitational travel orders (ITOs) and/or invitational travel authorizations (ITAs).

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### CALCULATING THE AMOUNT OF MILITARY CAREGIVER LEAVE

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An employee is eligible for 26 weeks of leave to care for the service member during a single 12-month period. This is not a per covered service member per injury event. An employee is entitled to a combined total of 26 workweeks of leave for any [FMLA](#) qualifying reason in a year in which he takes military caregiver leave. The single 12-month period begins the first day the employee takes military caregiver leave and ends 12-months later. Military caregiver leave may also be taken on an intermittent or reduced leave schedule.



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## FMLA: OTHER DEFINITIONS AND ISSUES

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All definitions and issues not covered in the policy will be governed by regulations and interpretations of the [FMLA](#) of 1993 and amendments to the [FMLA](#) by the National Defense Authorization Act (NDAA) Public Law 110-181.

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## SECTION 9-7. LEAVE WITHOUT PAY POLICY

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After all annual leave and compensatory leave is exhausted, upon written request of the employee, a period of leave without pay may be granted at the discretion of the department head in conjunction with the [County Manager](#) and final approval by the [County Commissioners](#), not to exceed five (5) days within a calendar year.

An employee who continually exhausts their available leave will be subject to the following: An employee not reporting to work for three days anytime within a fiscal year under leave without pay due to poor planning resulting in exhaustion of all available leave will be subject to disciplinary action up to and including dismissal. Leave without pay is a benefit not to be abused. Employees should strive to conserve their leave days in an effort to be best prepared for unforeseen circumstances. The employee will not receive annual leave or sick leave accumulation while on leave without pay. If a holiday falls during the leave without pay, the employee will not receive holiday pay.

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## EXTENDED LEAVE WITHOUT PAY POLICY

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A County employee may be granted a leave of absence without pay for up to one (1) year by the department head in conjunction with the [County Manager](#) and final approval by the [County Commissioners](#). An employee granted a leave without pay may be carried on [The County](#)'s books in a non-pay status. The leave will be used for extenuating personal or immediate family circumstances, completion of education or special work that will permit [The County](#) to benefit by the experience gained or the work performed. The employee will apply in writing to the Department Head for leave. He is obligated to return to duty within or at the end of the time determined appropriate by the [County Manager](#) and [Human Resources Director](#). If he finds that he will not return to work, he should notify the Department Head immediately. Failure to report at the expiration of a leave of absence, unless an extension has been requested, will be considered a resignation.

The employee will not receive annual leave, sick leave or holiday pay while on extended leave without pay. The employee is responsible for all insurance premiums. [The County](#) will not pay any types of insurance premiums during extended leave without pay.

## SECTION 9-8. VOLUNTARY SHARED LEAVE POLICY

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There are occurrences brought about by medical conditions or other extenuating circumstances that cause employees to exhaust all available leave and therefore be placed on leave without pay. It is recognized that such employees forced to go on leave without pay could be without income at the most critical point in their work life. It is also recognized that fellow employees may wish to voluntarily donate some of their leave so as to provide assistance to a fellow County employee. This policy provides an opportunity for employees to assist another affected by a medical condition that requires absence from work for a prolonged period of time resulting in possible loss of income due to lack of accumulated leave. The hours of elected officials who are county employees carried in the books will not be available for donation. In the case of a prolonged medical condition, an employee may receive donated leave from other employees within County government. For purposes of this policy, medical condition means a serious illness of an employee, their spouse, parents, children or other dependents as allowed by the Family Medical Leave Act that is likely to require an employee's absence from work for a prolonged period of time, generally considered to be in excess of two weeks. If an employee has had previous random absences for the same condition that has caused excessive absences or if the employee has had a previous, but different, prolonged medical condition within the last twelve months, The County may make an exception to the two-week period. The intent of this policy is to allow one employee to assist another in case of a prolonged medical condition that results in exhaustion of all earned leave.

The employee will not accrue annual leave or sick leave for the period of time that shared leave is used. If a holiday falls within the time frame of the shared leave, the employee will not receive holiday pay.

1. Establishment of a leave "bank" for use by unnamed employees is expressly prohibited. Leave must be donated on a pro-rated basis. (e.g. Employee A makes \$20 per hour and wishes to donate 0.5 hour to employee B who makes \$10 per hour. Employee B will be credited 1 hour.)
2. An employee may not directly or indirectly intimidate, threaten, coerce or attempt to intimidate, threaten or coerce, any other employee for the purpose of interfering with any right which such employee may have with respect to donating, receiving or using leave under this program. Such action by an employee will be grounds for disciplinary action up to and including dismissal on the basis of personal conduct. Individual leave records are confidential and only individual employees may reveal their donation or receipt of leave. The employee donating leave cannot receive remuneration for the donation of leave.
3. The employee must be a full-time permanent employee. Participation in this program will be based on the employee's past compliance with leave rules.
4. Non-qualifying conditions: this policy will not ordinarily apply to short-term or sporadic conditions or illnesses.

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### DONATION PROCEDURE

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1. By submission of a leave donation form, which may be obtained from the [Human Resources Department](#), an employee may request to donate leave to a fellow employee.
2. The leave donation form should include the donating employee's name, the recipient's name, the number of annual leave hours to be donated. The forms should also be dated. **Compensatory hours and sick leave hours may not be donated.**

3. The Privacy Act makes medical information confidential. When disclosing information on a recipient, only a statement that the recipient (or family member) has a prolonged medical condition needs to be made. If the employee wishes to make the medical status public, the employee may divulge that information at his own discretion.

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### RECIPIENT GUIDELINES

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1. A prospective recipient may receive voluntary shared leave at such time as medical evidence is available to support the need for leave beyond the employee's available accumulated leave.
2. The employee must exhaust all available leave before using donated leave.
3. At the expiration of the medical condition, as determined by the [County Manager](#), any unused leave in the recipient's donated leave account will be treated as follows:
  - i. The recipient's vacation and sick leave account balance will not exceed a combined total of 40 hours.
  - ii. Any additional unused donated leave will be returned to the donor(s) on a pro rata basis and credited to the leave accounts from which it was donated.
4. If a recipient separates due to resignation, death or retirement from County employment, participation in the program ends. Donated leave will be returned to donor(s) on a pro rata basis.

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### DONOR GUIDELINES

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The maximum amount of leave which will be allowed to be donated by one individual is no more than the amount of the individual's annual rate. However, the amount donated is not to reduce the donor's leave balances below one-half of the annual leave accrual rate.

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### LEAVE ACCOUNTING PROCEDURES

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1. All leave donated will be credited to the recipient's sick leave account. Voluntary shared leave available in the recipient's sick leave account will be charged according to the Sick Leave Policy.
2. Leave transferred under this program will be available for use on a current basis.

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## SECTION 9-9. MILITARY LEAVE

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A regular employee who is a member of the National Guard or Armed Forces Reserve will be allowed ten (10) workdays of military training leave annually.

On rare occasions due to annual training being scheduled on a federal fiscal year basis, an employee may be required to attend two periods of training in one calendar year. For this purpose only, an employee will be granted an additional ten days of military leave during the same calendar year. If such military duty is required beyond this additional (10) workday period, the employee will be eligible to take accumulated vacation leave or be placed on leave without pay status.

While on military leave with or without pay, an employee's health coverage will be maintained during military leave at the same level and status as during regular work period. An employee must arrange for

optional benefit premiums to be paid while on leave. Employees who are guardsmen and reservists have all job rights specified in the Vietnam **ERA Veterans** Readjustment Assistance Act.

## **SECTION 9-10. REINSTATEMENT FOLLOWING MILITARY SERVICE**

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Under the Uniformed Services Employment and Reemployment Rights Act (USERRA), there are time limits for returning to work that are based on the duration of the employee's military service. Time limits are as follows:

1. Time in service is for less than 31 days – employee must report to work by the beginning of the first regularly scheduled workday eight hours after he returns home from the military or
2. Time in service is from 31-180 days - employee must submit an application for employment no later than 14 days after completion of the service or
3. Time in service is for 181 days or more - employee must submit an application for employment no later than 90 days after completion of service and
4. An employee called to extended active duty with the United States military forces, who does not volunteer for service beyond the period for which called, will be reinstated with full benefits provided the employee is able to perform the duties of the former position or a similar position due to disability sustained as a result of military service, but is able to perform the duties of another position in the service of [The County](#). In this case the employee will be employed in such other position as will provide the nearest approximation of the seniority, status and pay which the employee otherwise would have been provided, if available.

An employee returning from military leave and qualifying for USERRA benefits may have the time of service counted toward the [FMLA](#) 12-month employment test and the [FMLA](#) 1,250 hour's requirement for [FMLA](#) eligibility.

## **SECTION 9-11. CIVIL LEAVE**

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A County employee called for jury duty or as a court witness for the federal or state government or a subdivision thereof, or witnesses an incident while on duty, will receive leave with pay only for the period of absence required by the court without charge to accumulated leave. The employee is entitled to regular compensation and fees received for jury or witness duty; except that employees must turn over to [The County](#) any jury or witness fees awarded by that court for court appearances in connection with official duties with [The County](#). If the employee must travel to another county and is awarded travel and/or meal reimbursement, the employee may keep the mileage and/or meal reimbursement and daily compensation fees. While on Court Leave, benefits and leave will accrue as though on regular duty.

Employees must return to work for any portion of the day remaining, immediately upon being excused from duty. Failure to return to work without appropriate authorization can be subject to disciplinary action or dismissal.

Employees who are called for jury duty are required to provide the [County Manager](#), department head or supervisor with a copy of their notice to serve and a copy of this document must accompany the timesheet for the weeks in which jury duty pay is awarded.

## **SECTION 9-12. BEREAVEMENT LEAVE**

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**Full-time employees only:** Under normal circumstances, an employee will be given (3) days paid funeral leave by [The County](#) for the death in the employee's immediate family. If additional leave is necessary, the [County Commissioners](#) can give (2) extra days under unusual circumstances. [The County](#) will not give more than (5) days for any reason. If further leave is needed the employee will be charged for vacation or sick leave. Immediate family is defined as wife, husband, parent, brother, sister, child, grandchild, grandparent (including great), in-law and step relationships derived from those listed.

## **SECTION 9-13. EDUCATION LEAVE**

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Educational leave with pay will be granted in accordance with the Fair Labor Standards Act 29 CFR Part 553 and 785 regulations which covers employer-required training.

Educational leave without pay may be granted by utilizing the [Leave without Policy](#) as outlined in [The County](#)'s Personnel Policy.

## **SECTION 9-14. ADVERSE WEATHER POLICY**

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In the event of severe weather conditions, the [County Manager](#) or in his absence the Director of Emergency Management or in his absence, the Chairman of the [County Commissioners](#), has the authority to alter the regular business day in accordance with the following guidelines.

1. **Optional Work Day:** During an adverse weather event deemed optional work day any employees that can make it to work are allowed to do so; however, if an employee feels it is unsafe to travel and does not report to work they may take compensatory time (must be taken first), then annual leave (vacation) or sick leave if available. If all leave has been exhausted, then leave without pay may be taken. If leave without pay is taken under these guidelines, then it in no way will reduce the (5) days of potential leave without pay granted in this policy in Chapter 9 Section 7. The employee will notify the department head of their intention.
2. **Mandatory Closure:** Should conditions be so severe that County offices need to be officially closed, no employee with the exception of those cited in this section will report to work or remain at work. If a mandatory closure is issued during the workday, any department that needs to temporarily retain staff to conclude services already in progress will with the approval of the [County Manager](#). Employees may take compensatory time (must be taken first), then annual leave (vacation), then sick leave, then leave without pay if all leave has been exhausted. If leave without pay is taken under these guidelines, then it in no way will reduce the (5) days of potential leave without pay granted in this policy in Chapter 9 Section 7. In no event will administrative leave be paid for time not worked due to closure of County offices. In the event of a mandatory closure an employee may be granted the ability to work from home only after a request has been made and approved directly by the [County Manager](#).

When altering the regular schedule due to adverse weather conditions the [County Manager](#) or in his absence the Chairman of the [County Commissioners](#) will dictate the level of closure (optional work day or mandatory closure) to all employees that are listed to receive the order. All

department heads and supervisors that are required to pass the order on to other employees will do so verbatim.

All essential services are excluded from the adverse weather policy. The departments that are considered essential are as follows: [Sheriff's Department](#), Jail (including Jail Cook), Emergency Medical Service, Emergency Management and Dispatch and Transit. Work hours will continue to be set at the discretion of the respective department head or supervisor.

Any employee who has already scheduled annual leave (vacation time) or who was already out sick or using compensatory time will not be allowed to claim leave without pay for that scheduled time under any circumstances.

Maintenance and other department personnel necessary for snow removal operations or other critical functions will work such hours as needed at the direction of the [County Manager](#).

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## SECTION 9-15. WORKER'S COMPENSATION LEAVE

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**Notice to Graham County Employees:** Employees have the right to report work-related injuries and illnesses. Employers are prohibited from discharging or in any manner discriminating against employees for reporting work-related injuries or illnesses. If you have an accident or if you are injured on the job you should immediately notify your supervisor. If your injury requires medical treatment you should follow the [The County](#) procedures regarding medical treatment. A third-party administrator may handle [The County's Workers' Compensation](#) claims. If you have questions about coverage or benefits under [Workers' Compensation](#) you should follow [The County's](#) procedures and either contact the [Human Resources Officer](#) or the third-party adjuster assigned to your agency or university.

COVERAGE DETERMINATION GUIDELINES adapted from the [North Carolina Workers' Compensation Employee Handbook](#):

1. As defined under the [North Carolina Workers' Compensation Act](#) an injury is covered under workers' compensation if it was caused by an accident or incident that arose out of and in the course of your employment. The [North Carolina Workers' Compensation Act](#) does not provide compensation for all injuries, but for injuries by accident. An accident is defined in the law as a separate event preceding and causing the injury. Unless there is an accident, an injury received while performing the regular duties in the usual and customary manner is not compensable.
2. There are two exceptions to the "by accident" requirements of the law. These are back injuries and hernias. If either of these injuries is caused by a specific traumatic incident of the work assigned, they are compensable in the absence of an accident preceding the injury.
3. Certain diseases termed "occupational diseases" are compensable under the [North Carolina Workers' Compensation Act](#). An occupational disease is any disease, which is proven to be due to causes, and conditions, which are characteristic of a particular occupation or employment, and the exposure is greater than that of the general public outside of the employment. Diseases of this nature are generally caused by a series of events of similar nature, occurring regularly or at frequent intervals over a period of time in the employment. Only those occupational diseases specifically designated in the [North Carolina Workers' Compensation Act](#) are compensable. All ordinary diseases of life to which the general public is equally exposed are excluded.

Pursuant of the [North Carolina Workers' Compensation Act](#), Chapter 97, responsibility for claiming compensation is on the injured employee. You must immediately give notice of the accident to the employer or as soon as possible after the accident occurs; in any event, notice should be given within 30 days or the employer may refuse compensation.

It is the policy of [The County](#) that all work-related injuries must be reported to the immediate supervisor within 24 (twenty- four) hours. The [Human Resources Department](#) has incident reporting forms to use which ask for information necessary to report a claim. Failure to report an injury within 48 (forty- eight) hours may result in disciplinary action, up to and including dismissal. The completed claim form must be forwarded to the [Human Resources Director](#) as soon as it is received by the supervisor. Serious injuries must be reported immediately.

An employee absent from duty because of sickness or disability covered by the North Carolina [Worker's Compensation Act](#) may receive Worker's Compensation Benefits.

1. Employee may use accrued sick leave or vacation leave for instances that are less than (7) seven days. Employee may not use accrued sick or vacation leave for instances more than (7) days. Employee will not accrue annual leave or sick leave for the period of time that the employee is on workers' compensation.
2. From day eight (8) until return to work or suitable modified light duty with in medical restrictions, payment of 66-2/3% of pre-injury wage.
3. Department directors and [Sheriff's Department](#) will be mandated to offer suitable modified light duty work within medical restrictions and assist offering these positions on an interdepartmental basis as approved by the [County Manager](#).
4. An employee who is absent due to a worker's compensation injury beyond three days will also be placed on Family and Medical Leave for up to the allowed twelve weeks. If an injury requires an employee's absence for more than 12 (twelve) weeks, [The County](#) will terminate the employee's County paid health insurance and offer the employee the option of continuing health insurance coverage through COBRA, which will be at the employee's expense.

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 worker's compensation.

Benefits while on workers' compensation leave are:

1. Medical and a portion of their dental insurance premiums will be paid by [The County](#) for up to 12 weeks. Premiums for any dependent coverage must be paid by the employee.
2. The employee will not accrue annual leave or sick leave while drawing workers' compensation benefits.
3. All other payroll deductions for optional benefits will be the responsibility of the employee.

## CHAPTER 10. EMPLOYEE BENEFITS

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### SECTION 10-1. GROUP LIFE AND ACCIDENTAL DEATH AND DISMEMBERMENT INSURANCE

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[The County](#) provides group life insurance to all permanent full-time employees which are effective after 60 days from the hire date.

[The County](#) will provide, at no cost to Elected Officials ([Sheriff](#), [Register of Deeds](#) and the [County Commissioners](#)), individual health, life and a portion of the dental insurance on the day that the Elected Official takes the Oath to Office and the insurance will end on the day that the Elected Official leaves said office. [The County](#) will waive any and all waiting periods for Elected Officials due to the fact that they are elected by the people of Graham County and are not hired employees. Deductions will be allowable, at the option of the Elected Official, to provide health and dental coverage for dependents in accordance with the provisions of the insurance contracts.

### SECTION 10-2. HOSPITALIZATION AND MEDICAL BENEFITS

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[The County](#) provides to all eligible employees a group health plan with Insurance Companies. Coverage is effective on the first of the month following 60 days of full-time employment (hire date). [The County](#) pays the full cost of the monthly premium for all eligible employees. Employees pay the cost for dependent insurance coverage.

[The County](#) will provide, at no cost to Elected Officials ([Sheriff](#), [Register of Deeds](#) and the [County Commissioners](#)) individual health, life and a portion of the dental insurance on the day that the Elected Official takes the Oath to Office and the insurance will end at the end of the month that the Elected Official leaves said office. [The County](#) will waive any and all waiting periods for Elected Officials due to the fact that they are elected by the people of [The County](#) and are not hired employees. Deductions will be allowable, at the option of the Elected Official, to provide health and dental coverage for dependents in accordance with the provisions of the insurance contracts.

Upon termination of employment, employees are eligible for continued coverage under COBRA ([Consolidated Omnibus Budget Reconciliation Act](#)). COBRA notifications will be mailed to an employee upon separation from the insurance administrator.

### SECTION 10-3. DENTAL INSURANCE

---

[The County](#) provides half the monthly premium to all permanent full-time employees' dental insurance. Coverage is effective on the first of the month following 60 days of full-time employment (hire date). Dependent coverage is available through payroll deductions. See the Human Resources Department for information.

[The County](#) will provide, at no cost to Elected Officials ([Sheriff](#), [Register of Deeds](#) and the [County Commissioners](#)), individual health, life and a portion of the dental insurance on the day that the Elected Official takes the Oath to Office and the insurance will end on the day that the Elected Official leaves said



office. [The County](#) will waive any and all waiting periods for Elected Officials due to the fact that they are elected by the people of [The County](#) and are not hired employees. Deductions will be allowable, at the option of the Elected Official, to provide health and dental coverage for dependents in accordance with the provisions of the insurance contracts.

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## SECTION 10-4. OTHER INSURANCE

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[The County](#) may provide additional group insurance benefits which will be available for the employees to choose from. These optional, employee-paid benefits may include supplemental life insurance, short-term and/or long-term disability insurance, dependent life insurance, cancer insurance, accident insurance, long-term care insurance, flexible spending plan and other types of coverage that may be available during any given year. There is no requirement that [The County](#) must provide any or all of these types of coverage, but [The County](#) may opt to offer these as a courtesy and added benefit to its employees.

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## SECTION 10-5. RETIREMENT

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### SOCIAL SECURITY

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As required by the Federal Government, employees contribute a set percentage of their salary to the [Federal Social Security Program](#). [The County](#) matches this amount.

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### RETIREMENT SYSTEM

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Permanent employees (all full-time and all permanent part-time) that reach the qualifying number of service hours may be enrolled in the [Local Government Employees' Retirement System](#) (qualifying law enforcement officers will be enrolled in the [N.C. Law Enforcement Officers' Retirement System](#)). Probationary full-time or part-time employees are not eligible for retirement benefits until they have reached full-time or permanent part-time status and accrue 1,000 hours or more of work service. The employee's contribution, through payroll deduction, is 6% of gross salary. This contribution is not subject to state or federal taxes. [The County](#) contributes a variable percentage that is set by the Retirement System.

Employers are now subject to penalties for failing to report return-to-work retirees on the monthly ORBIT reports, which is 10% of the unreported compensation. Reference [House Bill 642](#), effective July 1, 2009.

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## DEATH BENEFIT

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After one year of employment, members of the Retirement System automatically are eligible for a death benefit equal to the employee's previous year's salary, which is an amount between no less than \$25,000 and no more than \$50,000.

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## SEPARATE INSURANCE BENEFITS FOR LAW ENFORCEMENT OFFICERS

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If a law enforcement officer is killed in the line of duty, benefits are paid from a separate insurance plan handled by the Retirement System.

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## SECTION 10-6. UNEMPLOYMENT COMPENSATION

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County employees who are laid off or dismissed from County service may apply for unemployment compensation through the local office of the [Employment Security Commission](#) (ESC). Eligibility for unemployment compensation will be determined by the ESC.

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## SECTION 10-7. LAW ENFORCEMENT SPECIAL SEPARATION ALLOWANCE

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[The County](#) provides for a special separation allowance for law enforcement officers, as prescribed by [N.C.G.S. 128-21 \(11b\)](#) and [N.C.G.S.143-166.42](#) and subject to the following conditions:

1. the officer will have completed 30 or more years of creditable service or have attained 55 years of age and completed five or more years of creditable service; and
2. not have attained 62 years of age; and
3. have completed at least five years of continuous service as a law enforcement officer immediately preceding a service retirement, as defined by [N.C.G.S. 143-166.41\(a\)\(3\)](#) and [N.C.G.S.143-166.41\(b\)](#); and
4. the law enforcement officer, after separation from employment with [The County](#), notifies [The County](#) of any new employment, including the nature and extent of the employment or any other change of employment status within five (5) days of the new employment or employment change.

[The County](#) will cease payment of special separation allowance benefits to any retired law enforcement officer receiving benefits upon any of the following:

1. the recipient's death;
2. the last day of the month during which the recipient attains 62 years of age; or
3. the recipient's first day of employment as a sworn law enforcement officer with any subsequent federal, state or local governmental employer, provided that the retiree's subsequent employer participates in a government-sponsored retirement system, including without limitation any of the following:
  - a. North Carolina State Teachers' and State Employees' Retirement System;
  - b. North Carolina Local Government Employees' Retirement System;
  - c. Federal Employees' Retirement System;
  - d. Civil Service Retirement System; or

- e. any other state or local governmental retirement system outside the State of North Carolina.

The sole exception to this policy will be if the recipient returns to work for [The County](#) as a part-time, temporary law enforcement officer at the hourly pay rate established in the part-time pay and classification system.

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After termination of special separation allowance payments under this policy, such benefits will not reinitiate upon a change in circumstances of the retired employee.

## **CHAPTER 11. TRAVEL AND TRANSPORTATION EXPENSES**

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### **SECTION 11-1. POLICY**

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It is the policy of [The County](#) to reimburse its employees, elected officials and appointed officials for travel and transportation expenses directly related to official business of [The County](#). All travel costs will be paid directly to the individual incurring the expenses and may not be billed to [The County](#) without prior approval of the department head or [County Manager](#).

### **SECTION 11-2. USE OF COUNTY OWNED VEHICLES**

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A county car, when available, should be used instead of a private car. The department head must authorize reservations for a county vehicle.

County-owned cars will be used for official County business. It will be unlawful for any officer, agent or employee of [The County](#) to use vehicles for any private purpose.

Drivers will observe all local and state ordinances pertaining to the operation of motor vehicles. Any fines imposed for any violation that was under the control of the driver will be the responsibility of the driver.

Hitchhikers are not permitted to ride in county owned vehicles. Non-County employees may accompany county employees in county cars when they have an interest in the travel. Clients of the [Health Department](#) and [DSS](#) are covered as mandated by State program requirements for service delivery.

At the employee's destination, county cars may be used prudently for necessary travel to obtain meals, etc.

### **SECTION 11-3. TRAVEL REIMBURSEMENT**

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Vehicles owned by [The County](#) will be provided for certain personnel for County business. County vehicles are not to be used for personal purposes. County employees, traveling either inside or outside [The County](#) on official business, will drive a county owned vehicle unless one is not available then the employee may be reimbursed for mileage at the North Carolina State Rate.

Travel on official County business outside of [The County](#) must be authorized by the department head or for department heads, notify the [County Manager](#). A written request for overnight travel must describe the travel requested: the purpose of the proposed trip, the distance and destination and the period of time away from [The County](#).

Reimbursement will be provided for lodging, meals and expenses as established by the [County Commissioners](#). Employees and officials, traveling on a reimbursable basis for [The County](#), will keep an accurate record of their expenses. No reimbursement will be paid without a written travel claim signed by the employee and approved by the department head and the [County Manager](#). Receipts for the cost of hotels, meals and related travel expenses must be attached to the written claim. ALL EMPLOYEES WILL REQUEST GOVERNMENT RATES WHEN MAKING TRAVELING ACCOMODATIONS.

Employees who receive pre-payment for lodging, meals and expenses while traveling on county business must submit receipts to the [Finance Office](#), who will then balance to the prepayment amount. Any receipts found not pertaining to official county business will be withheld from the employees pay. Any unaccounted monies will be withheld from the employees pay.

Reimbursement for meals can be below per diem but cannot exceed the per diem rate. Receipts for all meals must be turned into the [Finance Office](#). Tips are not included with meal reimbursement rate.

Breakfast: (\$10.00) for an employee to claim breakfast, the employee must depart for their duty prior to 6:00 a.m.

Lunch: (\$15.00) for an employee to claim lunch, the employee must depart their office prior to noon or return after 2:00 p.m. When returning from a trip, employee must return to their duty after 2:00 p.m. in order to claim lunch. Overnight trips will include lunch if the employee must leave prior to noon on the day of departure.

Dinner: (\$25.00) for an employee to claim dinner, the employee must depart for their duty prior to 5:00 p.m. or return after 8:00 p.m. Overnight trips will include dinner.

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#### **SECTION 11-4. LODGING**

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Lodging will be reimbursed at the rate established for the conference or meeting which the employee is attending. If there is a choice of accommodation, please choose the one with the lowest rate. Sometimes reservations must be made early in order to get the lowest rate. When not at a conference or meeting which includes accommodations, employees should stay at a chain motel and request state rates.

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#### **SECTION 11-5. TRAINING TIME**

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Required attendance at training sessions, workshops and other meetings, whether before during or after the employee's regular work schedule, is considered work time.

Voluntary attendance at training sessions, workshops and other meetings is not work time. Attendance is voluntary only if the employee is not led to believe that his working conditions or continued employment would be adversely affected by non-attendance.

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#### **SECTION 11-6. TRAVEL TIME**

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Travel time is subject to the [Fair Labor Standards Act](#) and will be considered work time. This does not include time spent traveling to and from the employee's home and his local office. Travel time includes time spent traveling to training sessions, workshops, meetings, seminars, etc. and any travel time, which is part of an employee's daily responsibilities such as Building Inspectors, Environmental Health Specialists and Tax Assessors.

## **SECTION 11-7. WAGE/COMPENSATION WHILE TRAVELING**

---

When travel occurs during regularly scheduled work days [Normally Monday – Friday] payment will be made based on the normal rate of pay. If travel or conference/workshop occurs on any county observed Holiday, Holiday pay will be given. If required travel time plus actual training/conference time causes the employee to exceed the normal 40- hour workweek, overtime or compensatory time will be given.

All employees are urged to carpool when feasible to control training costs. Compensatory time is encouraged instead of overtime pay when practical.

## CHAPTER 12. PERSONNEL RECORDS

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### SECTION 12-1. PERSONNEL RECORDS

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The [County Manager](#) or his designated agent will retain personnel records of all disciplinary action. Personnel records are open for inspection in accordance with prevalent laws and regulations.

The following information on each employee will be maintained:

1. Name.
2. Age.
3. Date of original employment or appointment to State service, the terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the agency has the written contract or a record of the oral contract in its possession.
4. Current position.
5. Title.
6. Current salary (includes pay, benefits, incentives, bonuses and deferred and all other forms of compensation).
7. Date and amount of each increase or decrease in salary with that department, agency institution, commission or bureau.
8. Date and type of each promotion, demotion, transfer, suspension, separation or other change in position classification with that department, agency, institution, commission or bureau.
9. Date and general description of the reasons for each promotion with that department, agency, institution, commission or bureau.
10. Date and type of each dismissal, suspension or demotion for disciplinary reasons taken by the department, agency, institution, commission or bureau. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the head of the department setting forth the specific acts or omissions that are the basis of the dismissal.
11. The office or station to which the employee is currently assigned.

#### **Penalty for permitting access to confidential file by unauthorized person**

[N.C.G.S. 126-27](#) provides that any public official or employee who permits any person to have access to or custody or possession of any portion of a personnel file designated as confidential, when that person is not specifically authorized to have access to the information, is guilty of a misdemeanor; upon conviction he shall be fined in the discretion of the court but not in excess of \$500.

#### **Penalty for examining, copying, etc., confidential file without authority**

[N.C.G.S. 126-28](#) provides that any person, not specifically authorized to have access to a personnel file designed as confidential, who examines in its official filing place, removes, or copies any portion of a confidential personnel file, is guilty of a misdemeanor; upon conviction he shall be fined in the discretion of the court but not in excess of \$500.

### SECTION 12-2. PERSONNEL ACTION

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The [County Manager](#) or his designated representative will prescribe necessary forms and reports for all personnel actions.

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### **SECTION 12-3. DESTRUCTION OF RECORDS REGULATED**

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No public official may destroy, sell, loan or otherwise dispose of any public record, except in accordance with [N.C.G.S. 121-5](#), 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 the amount provided in [N.C.G.S. 132-2](#).



## **CHAPTER 13. IMPLEMENTATION OF POLICY**

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### **SECTION 13-1. CONFLICTING POLICIES REPEALED**

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All policies ordinances or resolutions that conflict with the provisions of these policies and procedures herewith are hereby repealed. However, certain policies pertaining to competitive service personnel will be in effect if there is a conflict with these policies.

### **SECTION 13-2. REPARABILITY**

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If any provision of these policies and procedures are held invalid, the remainder of this policy and the application of such remaining provisions of this policy, other than those held invalid, will not be affected.

### **SECTION 13-3. VIOLATION OF POLICY PROVISIONS**

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Any employee violating any of the provisions of these policies will be subject to suspension and/or dismissal, in addition to any civil or criminal penalty, which may be imposed for the violation.

### **SECTION 13-4. EQUALITY**

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All policies and provisions in this manual will be enforced on an equal and fair level. No employee will be less or more subject to the provisions of these policies due to “connections”, “status” or “level of responsibility”. **All** employees are expected to adhere to the policies and procedures set forth herewith, without exception subject to disciplinary action up to and including suspension and/or dismissal for violations.

### **SECTION 13-5. AMENDMENT**

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Amendments to these personnel policies and procedures will be recommended by the [County Manager](#) and approved by the [County Commissioners](#).

### **SECTION 13-6. ADOPTION**

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Adopted this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Keith Eller, Chairman

ATTEST: \_\_\_\_\_  
Kim Crisp, Clerk to the Board

## APPENDIX A

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### DEFINITIONS

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#### **Accident**

An occurrence associated with the operation of a revenue service vehicle even when not in revenue service, if as a result:

An individual dies;

An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,

One or more vehicles incur disabling damage as the result of the occurrence and are transported away from the scene by a tow truck or other vehicle.

For purposes of this definition, disabling damage means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available or damage to headlights, taillights, turn signals, horn, mirrors or windshield wipers that makes them inoperative.

#### **Adulterated Specimen**

A specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

#### **Adverse Action**

An involuntary demotion, involuntary reduction in pay, involuntary transfer, suspension without pay, layoff or dismissal. (Note: in agencies covered by the [State Human Resources Act](#), involuntary transfer is not an adverse action if it is a lateral transfer.)

#### **Agency**

A County Department, office, board or commission. County Department, office, board or commission.

#### **Alcohol**

The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

#### **Alcohol Concentration**

Expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath testing device.

**Aliquot**

A fractional part of a specimen used for testing, it is taken as a sample representing the whole specimen.

**Alleged Event or Action**

The precipitating workplace event or action or the receipt of notice of an event or action that is the basis for filing a grievance.

**Anniversary Date**

The employee's original date of employment (hire date with county) with The County service in a permanent position (see definition of permanent full-time and part-time position).

**Applicant**

A person who submits an application for initial hire, promotion or reemployment for a position in a County agency.

**Appointing Authority**

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

**Benefits**

Full-time permanent employees will receive the following benefits:

After 60 days:

County Health Insurance; Life Insurance; Optional Dental Insurance

After 60 days:

Annual Leave; Sick Leave; Voluntary Shared Leave; Holiday pay; Bereavement Leave; Civil Leave; Military Leave; Education Leave; Worker's Compensation Leave; and Adverse Weather Leave.

After 12 months:

FMLA: Retirement - After employee completes the probationary period for permanent full-time or permanent part-time positions and after they have worked a (6) month probationary period and have reached 1,000 hours or more they will participate and be eligible in the NC Local Government Retirement System

Qualify for FMLA (Family Medical Leave Act)

**Canceled Test**

A drug test that has been declared invalid by a Medical Review Officer. A canceled test is neither positive nor negative.

**Career State Employee**

A state employee who is in a permanent position with a permanent appointment and has been continuously employed by the State of North Carolina or a local entity as provided in N.C.G.S. 126-5(a)(2) in a position subject to the State Human Resources Act for the immediate 12 preceding months.

**Class**

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

**Classification and Pay Plan**

An approved plan by the [County Commissioners](#) that assigns classes (positions) to the appropriate pay grade.

**Competitive Service Employees**

An employee of [DSS](#); the Department of Public Health; or Office of Emergency Management receiving federal grant-in-aid's funds and subject to the [State Human Resources Act](#).

**Complainant**

An applicant, probationary county employee, former county employee, career State employee or former career State employee who initiates an informal complaint through the [Equal Employment Opportunity \(EEO\)](#) Informal Inquiry process.

**Confirmatory Drug Test**

A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or metabolite.

**Confirmatory Validity Test**

A second test performed on a different aliquot of the original urine specimen to further support a validity test result.

**Contested Case Issue**

A grievable issue that may be appealed to the Office of Administrative Hearing.

**Covered Employee**

An employee who performs a safety-sensitive function including an applicant or transferee who is being considered for hire into a safety-sensitive function (See Attachment A for a list of covered employees) and other employees, applicants or transferee that will not perform a safety-sensitive function but falls under the policy of the company's own authority.

**Cost-of-Living Adjustment (COLA)**

An annual adjustment that may be made by the [County Commissioners](#) to all pay ranges effective July 1 of each year.

**Current Unresolved Incident**

An act of unacceptable personal conduct, unsatisfactory job performance or grossly inefficient job performance for which no disciplinary action has previously been taken by [The County](#).

**Demotion**

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

**Designated Employer Representative (DER)**

An employee authorized by the employer to take immediate action to remove employees from safety-sensitive duties and to make required decisions in testing. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Parts 40 and 655.

**Department of Transportation (DOT)**

Department of the federal government which includes the, Federal Transit Administration, Federal Railroad Administration, Federal Highway Administration, Federal Motor Carriers' Safety Administration, Research and Special Programs and the Office of the Secretary of Transportation.

**Dilute Specimen**

A urine specimen with creatine and specific gravity values that are lower than expected for human urine.

**Disabling Damage**

Damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available or damage to headlights, taillights, turn signals, horn, mirrors or windshield wipers that makes them inoperative.

**Disciplinary Demotions**

A personnel action that:

- Lowers the salary of an employee within their current pay grade or
- Places the employee in a position at a lower pay grade with or without lowering the employee's salary and
- The action was involuntary and
- The action taken was to discipline the employee.

**Disciplinary Suspension Without Pay**

The removal of an employee from work for disciplinary reasons without paying the employee.

**Dismissal**

The involuntary termination of the employment of an employee for disciplinary reasons or for failure to obtain or maintain necessary job-related credentials.

**Electronic Technology Resources**

Includes, but is not limited to, host computers, files servers, routers, firewalls, switches, hubs, modems, workstations, standalone computers, laptops, printers, scanners, software, internal or external data communication networks, cell phones and fax machines.

**E-mail**

Is the ability to compose and distribute messages, documents, files, software or images by electronic means over a phone line or network connection. This includes internal and external e-mail and instant messaging systems.

**Equal Employment Opportunity Informal Inquiry**

An informal process for addressing allegations of unlawful discrimination, harassment and retaliation that may facilitate a resolution prior to the filing of a grievance.

**Evidentiary Breath Testing Device (EBT)**

A Device approved by the NHTSA for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations. Approved devices are listed on the National Highway Traffic Safety Administration (NHTSA) conforming products list.

**Final Agency Decision**

The final decision issued by the Agency Head that concludes the internal grievance process.

**Full-Time Employee**

An employee, appointed to a permanently established position, who is regularly scheduled to work thirty-seven and a half (37.5) to forty (40) hours or more per work week and is designated as full time.

**General County Employee**

A county employee not subject to the [State Human Resources Act](#).

**Grant Funded Positions (Full or Part-Time)**

An employee appointed to a grant funded position, whether full or part time, will receive salary/wages/benefits as allocated in the grant per the term of the grant. Once grant funding ceases to exist, this position is ended. Continuation of Grant-Funded Positions will be at the discretion of the [County Commissioners](#).

**Grievable Issue**

A workplace event or action as defined by NC State statute as grievable that allows an eligible employee to challenge the alleged workplace event or action through established grievance procedures for resolution.

**Grievance**

Any matter of concern or dissatisfaction arising from the working conditions of an employee, subject to the control of [The County](#).

**Grievant**

An applicant, probationary employee, former probationary employee, career “state” employee or former career “state” employee who initiates a grievance.

**Gross Inefficiency (Grossly Inefficient Job Performance)**

Failure to satisfactorily perform job requirements as set out in the job description, work plan or as directed by the management of the work unit or agency; and the act or failure to act causes or results in:

- Death or serious bodily injury or creates conditions that increase the chance for death or serious bodily injury to an employee(s) or to members of the public or to a person(s) for whom the employee has responsibility; or,
- The loss of or damage to county property or funds that results in a serious adverse impact on [The County](#) and/or work unit.

**Hiring Rate**

The salary paid an employee when hired into county service, normally the minimum of the salary range.

**Hearing**

A proceeding overseen by a Hearing Officer or Hearing Panel that allows a grievant to present information relevant to the nature of the grievance and the remedies sought.

**Hearing Officer**

An officer appointed by an agency to oversee the proceedings of a hearing and submit a proposed recommendation for a Final Agency Decision (FAD).

**Hearing Panel**

An agency appointed panel of no less than three members selected to conduct a hearing. The designated panel chair has the responsibility to oversee the proceedings of the hearing and submit a proposed recommendation for a Final Agency Decision

**Immediate Family**

An employee's wife, husband, mother, father, guardian, son, daughter, brother, sister, grandchild, grandparent or great grandparent as well as the various combinations of half, step, in-law or adopted relationships that can be derived from those family members named herein.

**Impasse**

An impasse occurs when mediation does not result in an agreement.

**Initial Drug Test (Screening Drug Test)**

The test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

**Initial Specimen Validity Test**

The first test used to determine if a urine specimen is adulterated, diluted, substituted or invalid.

**Informal Discussion**

An informal process for addressing a grievable issue that may facilitate a resolution prior to the filing of a formal grievance.

**Insubordination**

The willful failure or refusal to carry out a reasonable order from an authorized supervisor. Insubordination is unacceptable personal conduct for which any level of discipline, including dismissal, may be imposed without prior warning.

### **Internal Grievance**

The Internal grievance process must be completed within 90 Process Timeframe calendar days. Time spent in the Informal Discussion and the EEO Informal Inquiry is not included in the 90-calendar day timeframe.

### **Internal Grievance Process**

The process available to an applicant, probationary county employee, former county employee, career state employee or former state employee to file a formal grievance based on issues that are defined as grievable by NC State Statutes.

### **Internet**

Is the worldwide network of computer servers that allows access to the public through the use of special languages.

### **Invalid Result**

The result reported by an HHS-certified laboratory in accordance with the criteria established by the HHS Mandatory Guidelines when a positive, negative, adulterated or substituted result cannot be established for a specific drug or specimen validity test.

### **Laboratory**

Any U.S. laboratory certified by HHS under the National Laboratory Certification program as meeting standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under this part.

### **Limit of Detection (LOD)**

The lowest concentration at which a measure can be identified, but (for quantitative assays) the concentration cannot be accurately calculated.

### **Limit of Quantitation**

For quantitative assays, the lowest concentration at which the identity and concentration of the measure and can be accurately established.

### **Maximum Salary Rate**

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

### **Mediation**

The process in which the grievant and the agency respondent use a neutral third party(s) to attempt to resolve a grievance in a mutually acceptable manner. Responsibility for resolving the grievance rests with the parties.

### **Mediation Agreement**

The written agreement resulting from the successful resolution of a grievance reached in mediation. The Mediation Agreement is legally binding on both parties.



**Mediator**

A neutral third party(s) approved by the Office of State Human Resources (OSHR) whose role is to guide the mediation process, facilitate communication and assist the parties to generate and evaluate possible outcomes for a successful resolution. A mediator does not act as a judge and does not render decisions.

**Medical Review Officer (MRO)**

A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his medical history and any other relevant bio-medical information.

**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.

**Negative Dilute**

A drug test result which is negative for the five drug/drug metabolites but has a specific gravity value lower than expected for human urine.

**Negative Result**

The result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug, or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen.

**Network Resources**

Include the hardware and software necessary to connect computers and resources into a communication system.

**Non-Negative Test Result**

A urine specimen that is reported as adulterated, substitute, invalid or positive for drug/drug metabolites.

**Oxidizing Adulterant**

A substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or metabolites or affects the reagents in either the initial or confirmatory drug test.

### **Part-Time Employee**

An employee appointed to an established position, the duties of which are regularly scheduled less than thirty-seven and a half (37.5), who is paid on an hourly basis and is designated by the [County Commissioners](#) as a part-time employee. Those employees who are presently receiving pro-rated benefits prior to 10/15/12 will be grandfathered in and any employees that have been receiving full benefits for part time employment will be pro-rated to the allowable rate.

### **Part-Time PRN Employee**

An employee hired to work as needed to fill in for full-time or part-time employees who may be absent or on leave or to perform work that cannot be scheduled in advance.

### **Pay Plan**

A schedule of pay ranges arranged by sequential rates including minimum and maximum ranges for each class assigned to a salary range.

### **Performance Evaluation System**

A periodic review of an employee's performance, designed to facilitate year and equitable merit pay decisions, recognizing performance as the basis for pay increases within the established pay range.

### **Permanent Employee**

An employee who has completed twelve (12) months of satisfactory county service and has been approved for permanent status by his department head (with the approval, where applicable, of [The County Manager](#)).

### **Performing** (a safety-sensitive function)

A covered employee is considered to be performing a safety-sensitive function and includes any period in which he is actually performing, ready to perform or immediately available to perform such functions.

### **Permanent Full-Time Position**

A position that has been approved by the [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 [County Commissioners](#), the duties and responsibilities of which are required to be performed in less than a regular work day and/or work week. Employee is not eligible for benefits.

### **Position**

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

**Positive result**

The result reported by an HHS-Certified laboratory when a specimen contains a drug or drug metabolite equal or greater to the cutoff concentrations.

**Probationary Employee**

An individual appointed to a permanent position who has served less than twelve (12) months in the position.

**Probationary State**

A state employee who is exempt from the provisions of the [State Human Resources Act](#) only because the employee has not been continuously employed by the State for the time period required to become a career State employee.

**Prohibited Drug**

Identified as marijuana, cocaine, opiates, amphetamines (including ecstasy) or phencyclidine at levels above the minimum thresholds specified in [49 CFR Part 40](#), as amended.

**Promotion**

The reassignment of an employee to an existing position or classification in [The County](#) service having a higher salary range than the position or classification from which the reassignment is made.

**'Quid Pro Quo' Harassment**

Consists of unwelcome sexual advances, requests for sexual favors or other physical or verbal conduct when 1) submission to such conduct is made a term or condition of an individual's employment, either explicitly or implicitly or 2) rejection of or submission to, such conduct is used as a basis for employment decisions affecting such individual. 'Retaliation' is any adverse treatment resulting from an individual's opposition to unlawful workplace harassment.

**Reclassification**

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

**Reconfirmed**

The result reported for a split specimen when the second laboratory is able to corroborate the original result reported for the primary specimen.

**Rejected for Testing**

The result reported by an HHS-Certified laboratory when no tests are performed for specimen because of a fatal flaw or a correctable flaw that has not been corrected.

**Retirement**

Permanent employees will participate and be eligible in the NC Local Government Retirement System after a (12) month waiting period or after the permanent employee reaches 1,000 hours or more of service per year.

**Respondent**

A designated agency representative who has the authority to negotiate an agreement, as appropriate, on behalf of the agency to resolve a grievance.

### **Revenue Service Vehicles**

All transit vehicles that are used for passenger transportation service or that require a CDL to operate. Include all ancillary vehicles used in support of the transit system.

### **Safety-Sensitive Functions**

Employee duties identified as:

The operation of a transit revenue service vehicle even when the vehicle is not in revenue service.

The operation of a non-revenue service vehicle by an employee when the operation of such a vehicle requires the driver to hold a Commercial Driver's License (CDL).

Maintaining a revenue service vehicle or equipment used in revenue service.

Controlling the movement of a revenue service vehicle and

Carrying a firearm for security purposes.

### **Salary Grade**

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

### **Salary Plan**

A listing by grade of all the approved maximum and minimum salary ranges authorized by the [County Commissioners](#) for various position classifications of county government for hiring purposes and used in determining salary increases.

### **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 and used in determining salary increases.

### **Salary Range Revision**

The raising or lowering of the salary range for one or more specific classes of positions within the classification plan.

### **Software**

Are the computer programs that reside on any type of computer or electronic device including equipment control systems to perform a desired function. It encompasses programs provided by the manufacturer, a vendor or developed by in-house staff.

### **Split Specimen Collection**

A collection in which the urine collected is divided into two separate bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

### **Substance Abuse Professional (SAP)**

A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state-licensed marriage and family

therapist or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

### **Substituted Specimen**

A urine specimen with creatinine and specific gravity values that are so diminished that they are not consistent with normal human urine.

### **Temporary Employee**

An individual appointed to serve in a temporary position as defined below. Positions covered by the [State Human Resources Act](#) can be classified as temporary for no longer as one year.

### **Test Refusal**

The following are considered a refusal to test if the employee:

- Fails to appear for any test (excluding pre-employment) within a reasonable time, as determined by the employer, after being directed to do so by the employer;
- Fails to remain at the testing site until the testing process is complete;
- Fails to provide a urine or breath specimen for any drug or alcohol test required by Part 40 or DOT agency regulations;
- In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of your provision of a specimen;
- Fails to provide a sufficient amount of urine or breath when directed and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- Fails or declines to take a second test the employer or collector has directed you to take;
- Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process or as directed by the DER as part of the "shy bladder" or "shy lung" procedures;
- Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process);
- If the MRO reports that there is verified adulterated or substituted test result;
- Failure or refusal to sign Step 2 of the alcohol testing form;
- Failure to follow the observer's instructions during an observed collection including instructions to raise your clothing above the waist, lower clothing and underpants and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process;
- Possess or wear a prosthetic or other device that could be used to interfere with the collection process; or
- Admit to the collector or MRO that you adulterated or substituted the specimen.

### **Trainee**

An employee status when an applicant is hired (or employee promoted) who does not meet the minimum requirements of the class to which he is being appointed. All requirements of the trainee appointment must be satisfied prior to attaining regular status. During the duration of a trainee appointment, the employee is on probationary status.

### **Temporary Position**

A position for which the duties and responsibilities are required to be met for a specific short period of time and which may or may not require attendance by a person for a full work day and/or work week.

### **Trainee**

An employee status when an applicant is hired (or employee promoted) who does not meet the minimum requirements of the class to which he is being appointed. All requirements of the trainee appointment must be satisfied prior to attaining regular status. During the duration of a trainee appointment, the employee is on probationary status.

### **Transfer**

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

### **Unacceptable Personal Conduct** – an act that is:

- Conduct for which no reasonable person should expect to receive prior warning; or
- Job-related conduct which constitutes a violation of State or federal law; or
- Conviction of a felony or an offense involving moral turpitude that is detrimental to or impacts the employee's service to [The County](#); or
- The willful violation of known or written work rules; or
- Conduct unbecoming a county employee that is detrimental to county service; or
- The abuse of client(s), patient(s), student(s) or person(s) over whom the employee has charge or to whom the employee has a responsibility or of an animal owned by [The County](#); or
- Absence from work after all authorized leave and benefits have been exhausted; or
- Falsification of a county application or in other employment documentation.

### **Unlawful Workplace Harassment**

An unwelcome or unsolicited speech or conduct based upon race/color, gender, religion/creed, national origin, age or disabling condition as defined by [N.C.G.S. 168A-3](#) which creates/results in a "hostile work environment" or circumstances involving 'quid pro quo' harassment. 'Hostile work environment' is defined as one that a reasonable person would find to be abusive or hostile and one that the affected person perceives to be abusive or hostile. A hostile work environment is determined by an evaluation of all corresponding circumstances – including the frequency and severity of the alleged harassing conduct, whether it is physically humiliating or threatening in nature; and whether the unreasonable conduct interferes with the/an employee's work performances.

### **Unsatisfactory Job Performance**

Work-related performance that fails to satisfactorily meet job requirements as set out in the relevant job description, work plan or as directed by the management of the work unit or agency.

### **Users**

As used in this policy, refers to all employees, elected and appointed officials, independent contractors and other person or entities accessing or using any of [The County's](#) electronic technology resources.

### **Validity Testing**

The evaluation of the specimen to determine if it is consistent with normal human urine. Specimen validity testing will be conducted on all urine specimens provided for testing under DOT authority. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine if the urine was diluted or if the specimen was substituted.

### **Verified Negative Test**

A drug test result reviewed by an MRO and determined to have no evidence of prohibited drug use above the minimum cutoff levels established by the Department of Health and Human Services (HHS).

### **Verified Positive Test**

A drug test result reviewed by a MRO and determined to have evidence of prohibited drug use above the minimum cutoff levels specified in [49 CFR Part 40](#) as revised.

### **Work Against**

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

## **APPENDIX B**

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### **TOBACCO ORDINANCE**

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#### **Graham County Buildings**

##### **AN ORDINANCE PROHIBITING TOBACCO USE IN COUNTY BUILDINGS**

WHEREAS, tobacco use is the number one preventable cause of premature death in NC and the nation; and,

WHEREAS, local governments now have clear authority under N.C.G.S. 130A-498 to restrict smoking in buildings owned, leased as lessor or the area leased as lessee and occupied by local government; buildings and grounds wherein local health departments and departments of social services are housed; and any place on a public transportation vehicle owned or leased by local government and used by the public; and,

WHEREAS, secondhand smoke has been proven to cause cancer, heart disease and asthma in both smokers and nonsmokers; and,

WHEREAS, the 2006 Surgeon General's Report on the health consequences of involuntary exposure to tobacco smoke states that the scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke. The 2006 Surgeon General's Report documents that separating smokers from nonsmokers, cleaning the air and ventilating smoke cannot eliminate exposure to secondhand smoke; and,

WHEREAS, the Centers for Disease Control and Prevention (CDC) advises that all individuals with coronary heart disease or known risk factors for coronary heart disease should avoid all indoor environments that permit smoking; and,

WHEREAS, exposure to secondhand smoke is expensive, costing the nation \$10 billion per year, \$5 billion in direct medical care costs and \$5 billion in indirect costs according to the 2005 Society of Actuaries; and,

WHEREAS, the 2006 Surgeon General's Report documents that eliminating indoor smoking fully protects nonsmokers from exposure to secondhand smoke; and,

WHEREAS, The County of Graham provides support to employees who want to quit the use of tobacco products. These employees are also encouraged to talk to their health care provider about quitting; ask about appropriate pharmacotherapy available through The County health insurance plan or employee's insurer and use the free quitting support services of the North Carolina Tobacco Use Quit line at 1-800-QUIT-NOW (1-800-784-8669).

WHEREAS, The County of Graham recognizes the health risks of tobacco use and secondhand smoke for non-smokers. The aim is to minimize the harmful effects of tobacco use among staff and eliminate secondhand smoke exposure for staff and the public in those buildings controlled by The County;

NOW, THEREFORE, The County of Graham enacts:



### Section 1. Definitions

“Grounds” – The area located within 50 linear feet of a building wherein a local health department or a local department of social services is housed.

“Smoker” – A person who is smoking.

“Smoking” – The use or possession of a lighted cigarette, lighted cigar, lighted pipe or any other lighted tobacco product.

“Tobacco products” – Any product that contains tobacco and is intended for human consumption.

### Section 2. Use of Tobacco Products is prohibited in County Buildings and Transportation Vehicles

Use of tobacco products is prohibited in all of the following:

- (a) Buildings that are owned by [The County](#).
- (b) Buildings that are leased by [The County](#) as lessor.
- (c) Buildings or areas of buildings that are leased by [The County](#) as lessee and occupied by [The County](#).
- (d) Public transportation vehicles owned or leased by County and used by the public.
- (e) The grounds of any building housing one or more components of a [Graham County Health Department](#) or the [Graham County Department of Social Services](#).

### Section 3. Signage

- (a) Persons in charge of buildings identified in Section 2 will post signs at all entrances and exits explaining the prohibition of tobacco use. Signs may be posted in other areas of the buildings as well. For example, signs may be posted in other areas in the building where tobacco use is likely, such as bathrooms and dining areas.
- (b) Persons in charge of vehicles identified in Section 2 will post signs in the vehicles explaining the prohibition. The signs must be displayed in areas where passengers will be able to see the signs, but the placement of the signs must not interfere with the safe operation of the vehicle.
- (c) The signs required by subsections (a) and (b) of this Section must use clear and unambiguous language to convey the prohibition. The signs may include language such as “TOBACCO FREE BUILDINGS,” “TOBACCO USE PROHIBITED IN THIS BUILDING,” “TOBACCO USE NOT PERMITTED IN THIS BUILDING,” or “TOBACCO USE NOT PERMITTED IN THIS VEHICLE.” If a sign includes the international “No Smoking and Smokeless Tobacco” symbol (which consists of a pictorial representation of a burning cigarette and smokeless tobacco product enclosed in a red circle with a red bar across it), it must also include written text explaining the prohibition.
- (d) Persons in charge of buildings and vehicles identified in Section 2 must determine whether signs should be posted in languages other than English.
- (e) Persons in charge of buildings or grounds where tobacco use is prohibited by this ordinance will remove all publicly available ashtrays from the buildings and grounds.

### Section 4. Public Education

[The County Manager](#) will engage in a continuing program to explain and clarify the purposes and requirements of this ordinance to citizens affected by it and to guide owners, operator and managers in their compliance with it. The program may include publication of a brochure for affected businesses and individuals explaining the provisions of this ordinance.

### Section 5. Tobacco Use Permitted Outside Buildings

Use of tobacco products is permitted outside the buildings identified in Section 2, provided that the persons who are smoking do not stand adjacent to a public entrance or air intake vent.

Section 6. Enforcement and Penalties

- (a) Employees: Employees who violate this ordinance may be subject to sanctions consistent with County [Human Resources](#) policies.
- (b) Other Individuals: The person in charge of a building or vehicle identified in Section 2 or his designee who sees an individual using a tobacco product who is in violation of this ordinance must ask that individual to stop using the tobacco product. If, after having been asked to stop using the tobacco product, the individual continues to use the tobacco product, the person in charge will issue a formal warning and must ask the individual to leave the building.

Section 7. Effective Date. This ordinance will be effective. Adopted this 20<sup>th</sup> day of March 2009.

**AMENDMENT TO THE TOBACCO ORDINANCE 09-R-21/09-1-999**

**GRAHAM COUNTY BUILDING**

The following section will now read:

**SECTION 2. Use of Tobacco Products is prohibited in County Buildings, Transportation Vehicles and County Vehicles.**

**ADD to Section 2.**

**(f)** County owned or leased vehicles.

Read and approved by unanimous vote and adopted in the November 7<sup>th</sup>, 2017 Regular Meeting.