

**RUTHERFORD COUNTY  
PERSONNEL POLICY**

BE IT RESOLVED by the Board of County Commissioners for Rutherford County Government that the following policies apply to the appointment, classification, benefits, salary, promotion, demotion, dismissal, and conditions of employment for the employees of the County.

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## **ARTICLE I. GENERAL PROVISIONS**

### **Section 1. Purpose of the Policy**

Except as provided under Article I, Section 8 or as otherwise specified in this Personnel Policy, it is the purpose of this Personnel Policy and the rules and regulations set forth to establish a fair and uniform system of personnel management for all employees of Rutherford County under the administration of the County Manager, Sheriff, Register of Deeds, Elections Board, and Social Services Board. These aforementioned entities are the official appointing authorities covered by the Personnel Policy. State requirements will supersede these policies for positions subject to the State Personnel Act whenever there is a conflict. This policy is established under authority of G.S. 153A, Article 5 and G.S. 126 of the General Statutes of North Carolina.

### **Section 2. Merit Principles**

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

### **Section 3. Responsibilities of the Rutherford County Board of Commissioners**

The County Board of Commissioners shall be responsible for establishing and approving the Personnel Policy, Pay Plan and the Position Classification Plan. The County Board of Commissioners may change the policies and benefits as necessary. The County Board of Commissioners also shall make and confirm appointments when so allowed by the General Statutes.

### **Section 4. Responsibilities of the Rutherford County Manager**

The County Manager shall be responsible to the County Board of Commissioners for the administration and technical direction of the Human Resources Program. The County Manager may appoint, suspend, and remove County officers and employees except those elected by the people or whose appointment is otherwise provided for by law. The County Manager may make appointments, dismissals and suspensions in accordance with the state statutes and other policies and procedures spelled out in other Articles of the Personnel Policy.

The County Manager shall:

- a) recommend policies and revisions to the personnel system to the County Board of Commissioners for consideration;
- b) make changes as necessary to maintain an up-to-date and accurate position classification plan;
- c) recommend necessary revisions to the pay plan;
- d) determine which employees shall be subject to the overtime provisions of Fair Labor Standards Act (FLSA);

- e) develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the County;
- f) perform such other duties as may be assigned by the County Board of Commissioners not inconsistent with this Policy; and
- g) appoint an employee to the role of Human Resources Officer or serve in that role for Rutherford County.

## **Section 5. Responsibilities of the Rutherford County Human Resources Officer**

The responsibilities of the Human Resources Officer are to make recommendations to the County Manager on the following:

- a) recommend policies and revisions to the personnel system to the County Manager for consideration;
- b) recommend changes as necessary to maintain an up-to-date and accurate position classification plan;
- c) recommend necessary revisions to the pay plan;
- d) recommend which employees shall be subject to the overtime provisions of FLSA;
- e) maintain a roster of all persons in the service of Rutherford County;
- f) establish and maintain a list of authorized positions in the service of Rutherford County at the beginning of each budget year which identifies each authorized position, class title of position, salary range, any changes in class title and status, position number and other such data as may be desirable or useful;
- g) develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of Rutherford County;
- h) develop and coordinate training and educational programs for Rutherford County employees;
- i) investigate periodically the operation and effect of the personnel provisions of this policy;
- j) insure that Rutherford County complies with various human resources related laws and regulations;
- k) perform such other duties as may be assigned by the County Manager not inconsistent with this Policy;
- l) provide consultation to employees, department heads and elected officials regarding legal and up-to-date human resources practices, employee relations and morale, equal treatment of employees, and other issues; and
- m) insure that all employees receive and sign for a copy of this Personnel Policy and any revisions.

- n) maintain personnel files of county employees

In the event there is no Human Resources Officer, these duties will be assumed by the County Manager or the County Manager's designee.

### **Section 6. Responsibilities of Rutherford County Department Heads and Supervisors**

Department Heads and Supervisors shall meet their responsibilities as directed by the County Manager, being guided by the Personnel Policy and County ordinances. Rutherford County requires all Department Heads and Supervisors to meet their responsibilities by:

- a) dealing with all employees in a fair and equitable manner and upholding the principles of equal employment opportunities;
- b) developing and motivating employees to reach their fullest potential through continued education and training;
- c) making objective evaluations of individual work performance at least annually and discussing these evaluations with each employee so as to appreciate effective employee performance and bring about needed improvements;
- d) keeping employees informed of their role in accomplishing the work of their unit and of conditions or changes affecting their work;
- e) making every effort to resolve employee problems and grievances and advising employees of their rights and privileges.

### **Section 7. Application of Policies, Plan, Rules, and Regulations**

The Personnel Policy and all rules and regulations adopted pursuant thereto shall be binding on all employees. The County Manager, County Attorney, Elected Officials, Appointed Members of the County Board and Advisory Boards and Commissions will be exempt except in sections where specifically included. An employee violating any of the provisions of this policy shall be subject to appropriate disciplinary action; as well as, prosecution under any civil or criminal laws which have been violated. All employees are required to cooperate with any investigations conducted by Rutherford County.

### **Section 8. Departmental Rules and Regulations**

Because of specific personnel and operational requirements of the various departments of the County, each department is authorized to establish supplemental rules and regulations applicable only to the personnel of that department. All such rules and regulations shall be approved by the County Manager or designee, and shall not in any way conflict with the provisions of this Policy, but shall be considered as a supplement to this Policy. Except for any policies, rules or regulations for the Rutherford County Sheriff's Office, in the event of conflict between any such supplemental rules and regulations with this Personnel Policy, this Personnel Policy shall control.

Notwithstanding any provision to the contrary herein, the Sheriff of Rutherford County shall retain any and all authority regarding employment matters related to his deputies and other employees of the Rutherford County Sheriff's Office as provided by state law. This Personnel Policy shall serve to supplement any policies, rules, regulations of the Rutherford County Sheriff's Office and any decisions by the Sheriff of Rutherford County as permitted by state law, which shall control in the

event of any conflict with this Personnel Policy.

## **Section 9. Definitions**

For the purposes of the Personnel Policy, the following words and phrases shall have the meanings respectively ascribed to them by this section:

**Appointing Authority.** The County Manager will be designated as the Appointing Authority with the following exceptions:

- a) The Sheriff shall be the Appointing Authority for positions in the Sheriff's Department;
- b) The Register of Deeds shall be the Appointing Authority for positions in the Register of Deeds Department;
- c) The Board of Elections shall be the Appointing Authority for positions in the Elections Department; and
- d) The Social Services Director shall be the Appointing Authority for positions in the Department of Social Services.

**Continuous Service:** Uninterrupted employment including any approved leave or involuntary reduction in force.

**Eligible Family:** For the purposes of this Article, Eligible Family shall be defined as spouse, child, parent, sibling, grandparent, and grandchild to include in-law, step and half relationships.

**Exempt employees:** Employees who, because of their positional duties, responsibilities and level of decision-making authority, are exempt from the overtime provisions of the Fair Labor Standards Act (FLSA). Exempt employees are expected to work whatever hours are necessary to accomplish the goals and deliverables of their exempt position.

**Family and Medical Leave Act of 1993 (FMLA):** A United States federal law requiring covered employers to provide employees job-protected and unpaid leave for qualified medical and family reasons. Qualified medical and family reasons include: personal or family illness, family military leave, pregnancy, adoption, or the foster care placement of a child. FMLA is administered by the Wage and Hour Division of the United States Department of Labor.

**Full-time employee:** An employee who is in a position: (a) for which an average work week equals the number of hours required to be considered for the relevant department, which can total thirty-seven and one-half (37.5) hours, forty (40) hours, and forty-two (42) hours depending upon the department; and (b) employment is continuous for at least twelve (12) consecutive months. Such employees are eligible for benefits. The number of hours to be considered full-time as set forth herein are determined by departmental type: Regular employees; Solid Waste employees; or Emergency Service Personnel, which includes employees of EMS and of the Sheriff's Office.

**Immediate Family Member: For purposes of FMLA leave and sick leave:**

**Son or Daughter** *Son or daughter (or child)* means a biological, adopted, or foster child, stepchild, legal ward, or child of a person standing *in loco parentis*, who is either under age 18, or



age 18 or older and “incapable of self-care because of a mental or physical disability” at the time that FMLA leave is to commence.

**Parent** *Parent* means a biological, adoptive, step or foster father or mother, or any other individual who stood *in loco parentis* to the employee when the employee was a child. This term does not include parents-in-law.

**Spouse** *Spouse* means a husband or wife as defined or recognized in the state where the individual was married and includes individuals in a common law marriage or same-sex marriage.

**In Loco Parentis** A person stands *in loco parentis* if that person provides day-to-day care or financial support for a child. Employees with no biological or legal relationship to a child can stand *in loco parentis* to that child, and are entitled to FMLA leave (for example, an uncle who cares for his sister’s children while she serves on active military duty, or a person who is co-parenting a child with his or her same-sex partner). Also, an eligible employee is entitled to FMLA leave to care for a person who stood *in loco parentis* to that employee when the employee was a child.

**Leave without Pay (LWOP):** A temporary non-paid status while absent from duty. LWOP must be pre-approved.

**Limited Service:** An employee appointed to a position for which either a) the average work week required by the County over the course of a year is less than twenty (20) hours (or less than a total of 1,000 hours per year), or b) continuous employment required by the County is less than twelve (12) consecutive months. Such employees are not eligible for benefits other than FICA and workers’ compensation except that employees scheduled to work more than thirty (30) hours per week for more than three (3) consecutive months are eligible for health insurance under the Affordable Care Act.

**Non-exempt employees:** Employees, who because of the type of duties performed, the level of decision making authority, and the method of compensation, are subject to all Fair Labor Standards Act (FLSA) provisions including the payment of overtime or compensatory time. Non-exempt employees are normally required to account for hours and fractional hours worked.

**Part-time employee:** An employee who is in a position for which an average work week equals at least twenty (20) hours and less than thirty-seven and one-half (37.5) hours and employment is continuous for at least twelve (12) months. Such employees are eligible for pro-rated benefits.

**Permanent position:** A position authorized for the budget year for a full twelve (12) months and budgeted for twenty (20) or more hours per week. All County positions are subject to budget review and approval each year by the Board of County Commissioners and all employees’ work and conduct must meet County standards. Reference to “permanent” positions or employment should not be construed as a contract or right to perpetual funding or employment.

**Position Classification Plan:** A salary plan approved by the Board of County Commissioners that assigns grades/steps to the appropriate pay level.

**Probationary employee:** An employee appointed to a Full-time or Part-time regular position who has not yet successfully completed the designated probationary period. Persons in trainee appointments are a Probationary employee for the full duration of their appointment in that status.

**Regular employee:** An employee appointed to a Full-time or Part-time position who has

successfully completed the designated probationary period.

**Work Against Appointment:** The County will follow the requirements of the State Personnel Act where required. When qualified applicants are unavailable and there is no trainee provision for the classification of the vacancy, the appointing authority may appoint an employee below the level of the regular classification in a "Work Against" appointment. 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 in the position being recruited without clear justification.

A system whereby an employer must pay, or provide insurance to pay, the lost wages and medical expenses of an employee who is injured on the job.

## **ARTICLE II. POSITION CLASSIFICATION**

### **Section 1. Purpose**

The Position Classification Plan provides a complete inventory of all authorized and permanent positions in the County service, and an accurate description and specification for each class of employment. The plan standardizes job titles, each of which is indicative of a definite range of duties and responsibilities. All positions covered by the Personnel Policy are to be classified according to the assigned duties, responsibilities, qualifications needed, and other required factors. In order to insure its continuing value as a personnel management tool, the positions classification plan will be maintained to reflect the current work assignments and other conditions and requirements which are factors in proper classification and allocation of regular positions.

Positions in the Department of Social Services will be classified by the North Carolina Office of State Personnel in compliance with the rules and regulations under the State Personnel Act.

### **Section 2. Composition of the Position Classification Plan**

The Position Classification Plan shall consist of:

- a) a grouping of positions in classes which are approximately equal in difficulty and responsibility which call for the same general qualifications, and which can be equitably compensated within the same range of pay under similar working conditions;
- b) class titles descriptive of the work of the class;
- c) written specifications for each class of positions; and
- d) an allocation list showing the class title of each position in the classified service.

### **Section 3. Use of the Position Classification Plan**

The Position Classification Plan is to be used:

- a) as a guide in recruiting and examining applicants for employment;
- b) in determining lines of promotion and in developing employee training programs;

- c) in determining salary to be paid for various types of work;
- d) in determining personnel service items in departmental budgets; and
- e) in providing uniform job terminology.

#### **Section 4. Administration of the Position Classification Plan**

The County Manager, assisted by the Human Resources Officer, shall allocate each position covered by the Position Classification Plan to its appropriate class, and shall be responsible for the administration of the Position Classification Plan. The Human Resources Officer shall periodically review portions of the classification plan and recommend revisions to the County Manager to ensure that classifications accurately reflect current job duties and responsibilities. The Human Resources Officer shall also periodically review the entire classification plan and, when needed, recommend changes to the County Manager. The North Carolina Office of State Personnel shall administer the classification plan for employees who are subject to the State Personnel Act.

#### **Section 5. Authorization of New Positions and the Position Classification Plan**

New positions shall be established upon recommendation of the County Manager and approval of the County Board of Commissioners. New positions shall be recommended to the County Board of Commissioners with a recommended class title after which the Human Resource Officer, with the approval of the County Manager, shall either allocate the new position(s) into the appropriate existing class, or revise the Position Classification Plan to establish a new class to which the new position(s) may be allocated. The Position Classification Plan, along with any new positions or classifications shall be approved by the County Board of Commissioners and on file with the Human Resources Office. Copies will be available to all employees for review upon request.

#### **Section 6. Request for Reclassification**

Any employee who considers the position in which the employee is classified to be improper shall submit a request in writing for reclassification to such employee's immediate supervisor, who shall immediately transmit the request to the Human Resources Officer through the chain of command. Upon receipt of such request, the Human Resources Officer shall study the request, determine the merit of the reclassification, and recommend to the County Manager necessary changes, if any, to maintain a fair and accurate classification and pay plan. The Human Resources Officer shall provide written notification to the requesting employee as to the findings of the reclassification request within ten (10) days of the final determination by the County Manager.

## **ARTICLE III. THE PAY PLAN**

### **Section 1. Definition**

The Pay Plan includes the Salary Schedule and the assignment of classes to salary grades and steps adopted by the Board of County Commissioners. The Salary Schedule consists of beginning and maximum rates of pay for each job classification approved by the Board of County Commissioners. Salary increases within the pay range shall be based on criteria established by the County Manager and approved by the Board of County Commissioners.

### **Section 2. Administration and Maintenance**

The County Manager shall be responsible for the administration and maintenance of the Pay Plan. All employees covered by the Pay Plan shall be paid at a rate within the salary range established for the respective position classification, except for employees in trainee status or employees whose existing salaries are above the established maximum rate following transition to a new pay plan.

The Pay Plan is intended to provide equitable compensation for all positions, reflecting differences in the duties and responsibilities, the comparable rates of pay for positions in public employment in the area, changes in the cost of living, the financial conditions of Rutherford County, and other factors. To this end, from time to time, the County Manager, assisted by the Human Resources Officer, shall make comparative studies of all factors affecting the level of salary ranges and may make adjustments in the allocation of positions to salary grades. When major adjustments encompassing numerous positions are needed, or when a general adjustment is needed to the Pay Plan, the County Manager shall recommend such changes in salary ranges as appear to be warranted to the Board of County Commissioners. The Board of County Commissioners may adopt the Salary Schedule and assignment of job classes to salary grades, including any adjustments made by the County Manager during the previous budget year, annually as part of the budget process.

The County Manager may approve in-range adjustments to employee salaries not to exceed ten (10) percent when necessary to accommodate inequities, special performance or achievements, or other issues.

Periodically, the County Manager shall recommend that individual salary ranges be studied and adjusted as necessary to maintain market competitiveness. Such adjustments will be made by increasing or decreasing the assigned salary grade for the class and adjusting the rate of pay for employees in the class when the action is approved by the Board of County Commissioners.

### **Section 3. Starting Salaries**

All persons employed in positions approved in the Pay Plan normally may be employed at the beginning rate for the classification in which they are employed; however, on the recommendation of the Department Head and Human Resources Officer and with the approval of the County Manager, employee salaries may be approved above the beginning rate for the classification. Reasons for hiring above the beginning rate include exceptional education and experience qualifications of the applicant, a shortage of qualified applicants, and/or the refusal of qualified applicants to accept employment at the beginning rate. The Human Resources Officer and Department Heads shall consider internal equity of other employees in the department when making a recommendation for employment above the beginning rate.

Elected officials shall be paid, upon initial election or appointment, at the rate of pay of the previous incumbent.

#### **Section 4. Trainee Designation and Provisions**

Applicants being considered for employment or County employees who do not meet all of the requirements for the position for which they are being considered may be hired, promoted, demoted, or transferred by the County Manager to a "Trainee" status or under the State Personnel Act job classes as a "Work Against". In such cases, a plan for training and meeting the minimum qualification for the job classification, including a time schedule, must be prepared by the supervisor. An employee shall remain at the "Trainee" or "Work Against" salary level until the Department Head certifies that the employee is qualified to assume full responsibilities of the position and the County Manager approves the certifications. The Department Head shall review the progress of each employee in a "Trainee" or "Work Against" status every six (6) months or more frequently as necessary to determine when the employee is qualified to assume full responsibilities of the position. "Trainee" salaries may be two (2) grades below the beginning rate established for the position for which the person is being trained. (Positions subject to the State Personnel Act may be assigned no more than two (2) grades below for "Trainee" purposes). The actual assignment should be reviewed and approved by the Human Resources Officer. A new employee designated as a "Trainee" appointment shall be in a probationary status until requirements for the full job class are met. In such cases, a plan for training, including a time schedule, must be prepared by the Department Head.

If the training is not successfully completed as planned, the employee shall be transferred, demoted, or dismissed. If the training is successfully completed, the employee shall be paid at least the beginning rate established for the job class.

#### **Section 5. Probationary Pay Increases**

When probationary pay increases are funded and implemented, employees hired or promoted into the beginning rate of the pay range shall receive a salary increase within the salary range of approximately five percent (5%) upon successful completion of the probationary period. Employees serving a twelve-month (12) probationary period are eligible for consideration for this pay increase after six (6) months of successful employment; employees with a twelve (12) month probationary period who receive an increase at the six (6) month review will not be eligible for an increase at the end of the twelve (12) month probationary period. Employees hired or promoted above the beginning rate may also be considered for an increase when removed from probationary status, based upon performance level.

#### **Section 6. Performance Pay**

Upward movement within the established salary range for an employee is not automatic but rather based upon specific performance criteria. Procedures for determining performance levels and performance pay increases shall be established in procedures approved by the County Manager, consistent with budgets approved by the Board of County Commissioners.

#### **Section 7. Performance Bonus**

Employees who are at the maximum amount of the salary range for their position classification will be eligible to be considered for a performance bonus at their regular performance evaluation time when performance pay is authorized and budgeted. Performance bonuses shall be awarded based upon the performance of the employee as described in the performance evaluation and shall be

the same percentage of annual salary as employees within the salary range with the same performance level. Performance bonuses do not become part of base pay and shall be awarded in a lump sum payment. Employees above the maximum of the range are not eligible for this performance bonus.

## **Section 8. Salary Effect of Promotions, Demotions, Transfers, and Reclassifications**

**Promotions.** The purpose of a pay increase for a promotion (as defined in Article IV, Section 5) is to recognize and compensate the employee for assuming increased responsibility. When an employee is promoted to a position with a higher salary grade, the employee's salary shall be advanced to the beginning rate of the new position; or to a salary which provides an increase of five percent (5%) over the employee's salary before the promotion, whichever rate results in the higher amount of pay. In the event of highly skilled and qualified employees, shortage of qualified applicants, or for other reasons related to the merit principle of employment, the County Manager may set the salary at an appropriate rate in the range of the position to which the employee is promoted that best reflects the employee's qualifications for the job and relative worth to the County, taking into account the range of the position and relative qualifications of other employees in the same classification. In no event; however, shall the new salary exceed the maximum rate of the new salary range.

The amount of the salary adjustment should be based upon:

- a) the employee's related education, training, and experience;
- b) the nature and magnitude of the change in jobs;
- c) budget availability;
- d) consistency with similar circumstances in the past;
- e) internal equity within the work unit; and
- f) any other relevant issues.

Cost of living (or market adjustment), probationary increases for a previous job, and other in-range increases cannot be considered in a promotional increase. The position of the employee's adjusted salary within the new salary range shall not exceed the position of the employee's salary in the current range.

**Demotions.** When an employee is demoted to a position for which qualified, the salary shall be set at the rate in the lower pay range which provides a salary commensurate with the employee's qualifications to perform the job when the demotion is not the result of discipline. If the current salary is within the new range, the employee's salary may be retained at the previous rate, if appropriate. Consideration should be given to whether the employee is receiving the same pay for decreased workload or responsibility level and action should be appropriate to this consideration along with internal equity consideration of the pay rate of other employees in the same classification. If the demotion is the result of disciplinary action, the salary shall be decreased at least approximately five percent (5%), but may be no greater than the maximum of the new range.

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

**Reclassifications.** An employee whose position is reclassified to a class having a higher salary range shall receive a pay increase of approximately five percent (5%) or an increase to the beginning rate of the new pay range, whichever rate results in the higher amount of pay. If the position is reclassified to a lower pay range, the employee's salary shall remain the same. If the employee's salary is above the maximum established for the new range, the salary of that employee shall be maintained at the current level until the range is increased above the employee's salary.

### **Section 9. Salary Effect of Salary Range Revisions**

When a class of positions is assigned to a higher salary range as a result of labor market conditions, employees in that class shall receive a five percent (5%) increase for each salary grade increase, if such increases do not exceed the midpoint of the new range. Each employee shall receive a minimum of five percent (5%) for the range revision, even if such increase takes the employee above the midpoint of the new range. When a class of positions is assigned to a lower salary range, the salaries of employees in that class will remain unchanged. If the assignment to a lower salary range results in an employee being paid at a rate above the maximum established for the new class, the salary of that employee shall be maintained at that level until such time as the employee's salary range is increased above the employee's current salary.

### **Section 10. Transition to a New Salary Plan**

The following principles shall govern the transition to a new salary plan:

- 1) No employee shall receive a salary reduction solely as a result of the transition to a new salary plan.
- 2) All employees being paid at a rate lower than the beginning rate established for their respective classes shall have their salaries raised to the new beginning rate for their classes. The only exception will be those employees currently being paid at a "Trainee" rate, or in a "Work Against" status. These employees will remain in their same relative pay status in the new salary grade assigned.
- 3) All employees being paid at a rate above the beginning rate and below the maximum rate are considered as being paid at a competitive rate for the job class and may receive any approved salary plan implementation increases as authorized by the Board of County Commissioners.
- 4) All employees being paid at a rate above the maximum rate established for their respective classes shall be maintained at that salary level with no increase in base pay until such time as the employees' salary range is increased above the employees' current salary. This means no performance/merit pay increases or market adjustment/cost of living increases or any other increases to the base pay of the employee until the employee is within the appropriate salary range.

### **Section 11. Effective Date of Salary Changes**

Salary changes approved after the first working day of a pay period shall become effective at the beginning of the next pay period; or at such specific date as may be provided by procedures approved by the County Manager.

## **Section 12. Overtime Pay Provisions**

Employees of Rutherford County can be requested and may be required to work overtime hours necessitated by the needs of the County as determined by the Department Head and/or Supervisor. All overtime work must be authorized in advance and properly documented on the time sheet.

Department Heads and Supervisors shall attempt to arrange employee work schedules to accomplish the required work within the standard workweek and without incurring overtime.

The County will comply with the Fair Labor Standards Act (FLSA). The County Manager shall determine, based on the recommendation of the Human Resources Officer, which jobs are "Non-Exempt" and are therefore subject to the Fair Labor Standards Act in areas such as hours of work and work periods, rates of overtime compensation, and other provisions.

### **Non-Exempt Employees:**

Employees are expected to work during all assigned periods exclusive of breaks or mealtimes. Employees are not to perform work at any time they are not scheduled to work, unless they receive pre-approval from their Department Head or Supervisor, and except in cases of emergency.

Non-exempt employees will be paid a straight time rate for hours up to the FLSA established limit for their position (usually forty (40) hours in a seven (7) day period; or 171 hours in a twenty-eight (28) day cycle for sworn law enforcement employees). Hours worked beyond the FLSA established limit will be compensated in time or pay at the appropriate overtime rate. In determining eligibility for overtime in a work period, only hours actually worked shall be considered; in no event will vacation, sick leave, holidays or on-call time be included in the computation of hours worked for FLSA purposes.

Whenever practical, departments will schedule time off on an hour-for-hour basis within the applicable work period for non-exempt employees, instead of paying overtime. When time off within the work period cannot be granted, overtime worked will be given in the form of compensatory time off or paid in accordance with FLSA requirements.

Earned compensatory time may be granted whenever feasible and determined by the County Manager, based on recommendations from the Department Head. Accumulation of more than eighty (80) hours of compensatory time is discouraged and must have the approval of the County Manager. However, under FLSA provisions, Non-exempt employees may accumulate up to 240 hours of approved compensatory leave (sworn law enforcement officers may accumulate up to 480 hours of approved compensatory leave). Non-exempt employees separating from employment shall be paid for their compensatory time balances.

### **Exempt Employees:**

Employees in positions determined to be "Exempt" from the FLSA (as Executive, Administrative, or Professional staff) will not receive pay for hours worked in excess of their normal work periods. These employees may be granted compensatory leave by their supervisor where the convenience of the department allows and in accordance with procedures established by the County Manager. Such compensatory time is not guaranteed to be taken and ends without compensation upon separation from the organization.



**Disaster Overtime Pay Policy**  
**Emergency Situations-non-exempt employees**

In emergency situations, non-exempt employees will be paid at straight time rate for hours up to the FLSA established limit for their position (usually forty (40) hours in a seven (7) day period; or 171 hours in a twenty-eight (28) day cycle for sworn law enforcement employees) Hours worked beyond the FLSA established limit will be compensated in time or pay at the appropriate overtime rate.

**Section 13. On-Call and Call-Back Compensation**

Rutherford County provides continuous twenty-four (24) hours a day, seven (7) days a week service to its citizens. Therefore, it is necessary for certain employees to respond to any reasonable request for duty at any hour of the day or night. One of the conditions of employment with Rutherford County is the acceptance of a share of the responsibility for continuous service in accordance with the nature of each job. If an employee fails to respond to reasonable calls for emergency service, either special or routine, the employee shall be subject to disciplinary action up to and including dismissal by the appointing authority.

**On-call.** On-call time consists of scheduled non-work hours in excess of the standard work period when an employee is required to be available to be called back to work on a regularly scheduled or emergency basis and must respond within a reasonable period of time and must be free from the influence of alcohol or narcotics and able to work. On-call schedules must be approved by the Department Head.

**Call-back.** Call-back time consists of actual time spent when called back to work to handle an emergency situation. Non-exempt employees will be guaranteed a minimum payment of two (2) hours of comp time for being called back to work outside of normal working hours. "Call-back" provisions do not apply to previously scheduled overtime work (scheduled one or more days in advance) or telecommuting work from home.

**Section 14. Payroll Schedule and Deductions**

The payroll schedule shall be established by the County Manager and shall be administered by the Finance Department. Deductions shall be made from each employee's salary, as required by law. Additional deductions may be made upon the request of the employee on determination by the County Manager as to the capability of payroll equipment and appropriateness of the deduction.

**Section 15. Hourly Rate of Pay**

Employees working in a Part-time or Limited service capacity with the same duties as Full-time employees will work at a rate in the same salary range as the Full-time employees.

The hourly rate for employees working more than the average of thirty-seven (37.5) hours per week, such as law enforcement officers working an average forty-two (42) hours per week, will be determined by dividing the average number of hours scheduled per year into the annual salary established for the position.

**Section 16. Pay for Interim Assignment in a Higher Level Classification**

An employee who is formally designated for a period of at least one (1) month to perform the duties of a job that is assigned to a higher salary grade than that of the employee's regular classification

shall receive an increase for the duration of the interim assignment. The employee shall receive a salary adjustment to the beginning rate of the job in which the employee is acting or an increase of ten percent (10%), whichever is higher. Criteria involved in determining the amount of compensation shall include

- a) the difference between the existing job and that being filled on a temporary basis, and
- b) the degree to which the employee is expected to fulfill all the duties of the temporary assignment.

The salary increase shall be temporary and the employee shall go back to the salary the employee would have had if not assigned to the interim or acting role upon completion of the assignment, taking into account any increase the employee would have received if not placed in the interim or acting role.

### **Section 17. Longevity Pay**

Full-time employees are compensated for Service with the County by payment of a longevity supplement based on Continuous Service as of the end of December of each year.

Longevity supplement amounts shall be as follows:

<u>Continuous Service</u>	<u>Amount</u>
1 – 5 years	\$ 50
5 - 10 years	0.500%
10 - 15 years	0.750%
15 - 20 years	1.125%
20 - 25 years	1.250%
25 plus years	2.250%

Longevity pay will be issued in December of each year or as designated by the County Manager.

### **Section 18. Direct Deposit**

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

## **ARTICLE IV. RECRUITMENT AND EMPLOYMENT**

### **Section 1. Equal Employment Opportunity Policy**

It is the policy of the County to foster, maintain and promote an Equal Employment Opportunity. Rutherford County shall select employees on the basis of the applicant's qualifications for the job and award them, with respect to compensation and opportunity for training and advancement, including upgrading and promotion, without regard to age, sex, race, color, religion, national origin, political affiliation, qualified disability, marital status, veteran status, or genetic information. Qualified individuals with disabilities, as defined by the American with Disabilities Act, shall be given equal consideration with other applicants.

### **Section 2. Implementation of Equal Employment Opportunity Policy**

All personnel responsible for recruitment and employment will continue to review regularly the implementation of this policy and relevant practices to assure that equal employment opportunities based on reasonable, job-related job requirements are being actively observed to the end that no employee or applicant for employment shall suffer discrimination because of age, sex, race, color, religion, national origin, political affiliation, qualified disability, marital status, or genetic information. Notices with regard to equal employment matters shall be posted in conspicuous places on County premises in places where notices are customarily posted.

### **Section 3. Recruitment, Selection and Hiring**

**Recruitment Sources.** When position vacancies occur, the Human Resources Office shall publicize these opportunities for employment, including applicable salary information and employment qualifications. Information on job openings and hiring practices will be published in local and/or other news media and on the County website as necessary to inform the community and create a quality and diverse pool of applicants. In addition, notice of vacancies shall be posted at designated conspicuous sites within departments. Individuals shall be recruited from a geographic area as wide as necessary and for a period of time sufficient to ensure that well-qualified applicants are obtained for Rutherford County service. The North Carolina Division of Employment Security may be used as a recruitment source. In rare situations, because of emergency conditions, high turnover, or other extraordinary matters, the County may hire or promote without advertising jobs, upon approval of the County Manager and only in accordance with Federal and North Carolina law.

**Job Advertisements.** Employment advertisements shall contain assurances of Equal Employment Opportunities and shall comply with Federal and State statutes.

**Application for Employment.** All persons expressing interest in employment with Rutherford County shall be given the opportunity to file an application for employment for positions which are currently being recruited.

**Application Reserve File.** Applications shall be kept in an inactive reserve file (currently for a period of two (2) years in accordance with Equal Employment Opportunity Commission guidelines.

**Selection.** Department Heads, with the assistance of the Human Resources Officer, shall make such investigations and conduct such examinations as necessary to assess accurately the knowledge, skills, experience, and qualifications required for the position. All selection devices administered by the County shall be valid measures of job performance.

**References and Background Investigations.** Before any commitment is made to an applicant, the County will conduct reference checks regarding the employee's qualifications and work performance. In addition, physical examinations, drug screening and criminal background investigations may be performed. Conviction of a crime is not automatically disqualifying. Rutherford County will consider the severity of the crime, degree to which the crime is related to the job for which the applicant is being considered, and length of time since the conviction to determine the degree to which there is a business necessity for choosing not to hire the applicant.

**Hiring.** Before any commitment is made to an applicant either internal or external, the Department Head shall make recommendations to: (a) the Sheriff or designee for employees of the Sheriff's Office; (b) the Register of Deeds or designee for employees of the Register of Deeds' Office; or (c) to the Human Resources Officer for all other employees; said recommendations to the relevant officer to include the position to be filled, the salary to be paid, and the reasons for selecting the candidate over other candidates. The Sheriff for employees of the Sheriff's Office, the Register of

Deeds for employees of the Register of Deeds Office, or the County Manager or Human Resources Officer for all other employees will approve the starting salary and has the authority to approve negotiated benefits. All employment offers should be confirmed in writing. The Personnel Action Form, the original application for employment, a copy of the employment offer letter, and any additional supporting documents pertaining to the selected candidate should be submitted to the Human Resources office prior to the beginning date of employment. The documents will become part of the new employee's personnel file.

#### **Section 4. Probationary Period**

Each employee appointed or promoted to a regular position shall serve a probationary period and be considered a Probationary Employee during this probationary period. The probationary period for each Probationary Employee shall be for the period six (6) months following the date of hire, except that sworn law enforcement personnel and Department Heads shall serve a twelve (12) month probationary period. Employees in "Trainee" or "Work Against" appointments will have specific time frames established for their probationary period.

Supervisors shall monitor each Probationary Employee's performance and communicate with the Probationary Employee concerning performance progress. Probationary Employees serving a twelve (12) month probationary period shall have a probationary review at the end of six (6) months in addition to the probationary review required as set forth below.

An important purpose of the probationary period is to provide an opportunity for the Probationary Employee to adjust to the new job. Likewise, it serves as a trial period during which the Probationary Employee demonstrates his or her ability to perform the work, to demonstrate good work habits and to work well with the public and coworkers. Before the end of the probationary period, the Probationary Employee's supervisor shall conduct a performance evaluation conference with the Probationary Employee to determine whether or not the Probationary Employee is meeting job expectations. The Probationary Employee's progress (accomplishments, strengths, and areas for improvement) will be discussed with the Probationary Employee and a summary of this discussion should be documented in his or her personnel file. The supervisor shall recommend in writing whether the probationary period should be completed, extended, or if the Probationary Employee should be transferred, demoted, or dismissed. With approval of the County Manager, the probationary period may be extended for up to two (2) additional periods of three (3) months each for a maximum extension of the probationary period of six (6) months. The maximum probationary period, including all applicable extensions, for law enforcement officers and Department Heads is eighteen (18) months, and for other County employees is twelve (12) months.

Disciplinary action, including demotion and dismissal, may be taken at any time during the probationary period for a Probationary Employee without following the steps outlined in the Rutherford County Personnel Policy for disciplinary action.

A Probationary Employee who is in a probationary period only by reason of promotion who does not successfully complete the probationary period may be transferred or demoted to a position in which that employee may be better qualified. If no such position is available, the Probationary Employee by reason of promotion shall be dismissed. Probationary Employees by reason of promotion shall retain all other rights and benefits such as the right to use the grievance procedures.

#### **Section 5. Promotion**

Promotion is the movement of an employee from one position to a vacant position in a class assigned to a higher salary range. It is the County's policy to create career opportunities for its employees whenever possible. Therefore, when a current employee applying for a vacant position is best suited of all applicants, both external and internal, that applicant shall be promoted to that position.

Rutherford County will balance three goals in the employment process:

- a) the benefits to employees and the organization of promotion from within;
- b) providing equal employment opportunity and a diversified workforce to the community; and
- c) obtaining the best possible employee who will provide the most productivity in that position.

Candidates for promotion shall be chosen on the basis of their qualifications and their work records. Candidates for promotion shall apply for promotions using the same application process as candidates for that position not already employed by Rutherford County. Employees who are promoted will serve a six (6) month probationary period.

#### **Section 6. Demotion**

Demotion is the movement of an employee from one position to a position in a class assigned to a lower salary range. Demotions may be voluntary or involuntary. An employee whose work or conduct in the current position is unsatisfactory may be involuntarily demoted provided that the employee shows the ability to become a satisfactory employee in the lower position. Such demotion shall follow the disciplinary procedures outlined in the Rutherford County Personnel Policy. Demoted employees may appeal this decision based on the Grievance Procedure outlined in the Personnel Policy.

An employee may request a voluntary demotion when a vacant position is available. Employees may request voluntary demotions in order to accept a position with less complex duties and reduced responsibilities, to change career paths, or for other reasons. A voluntary demotion is not a disciplinary action and is made without using the above-referenced disciplinary procedures.

#### **Section 7. Transfer**

Transfer is the movement of an employee from one position to another position in a class in the same salary range. If a vacancy occurs and an employee in another department is eligible for a transfer, the employee shall apply for the transfer using the usual application process. The Department Head wishing to transfer an employee to a different department or classification shall make a recommendation to the County Manager with the consent of the receiving Department Head. Any employee transferred without requesting the action may appeal the action in accordance with the Grievance Procedure outlined in this policy. Employees who are transferred to a different department will serve a six (6) month probationary period.

## **ARTICLE V. CONDITIONS OF EMPLOYMENT**

### **Section 1. Work Schedule**

Department Heads shall establish work schedules, with the approval of the County Manager, which meet the operational needs of the department in the most cost effective manner possible.

### **Section 2. Political Activity**

Each employee has a civic responsibility to support good government by every available means and in every appropriate manner. Except as provided by state law, including case law, each employee may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, may advocate and support the principles or policies of civic or political organizations in accordance with the Constitution and Laws of the State of North Carolina and in accordance with the Constitution and Laws of the United States. However, no employee shall:

- a) engage in any political or partisan activity while on duty;
- b) use official authority or influence for the purpose of interfering with or affecting the result of a nomination or an election for office;
- c) be required as a duty of employment or as condition for employment, promotion or tenure of office to contribute funds for political or partisan purposes;
- d) coerce or compel contributions from another employee of Rutherford County for political or partisan purposes;
- e) use any supplies or equipment of Rutherford County for political or partisan purposes; or
- f) be a candidate for nomination or election to the office of County Commissioner.

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

### **Section 3. Expectation of Ethical Conduct**

The proper operation of Rutherford County Government requires all public officials and employees to 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 office 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.

No employee of the County shall accept any gift, favor, or thing of value (defined as being Fifty Dollars (\$50) or greater in value) from organizations, business firms, or individuals with whom they have official relationships because of County business. These limitations do not prohibit the acceptance of articles of negligible value which are distributed generally, nor prohibit employees from accepting social courtesies that provide good public relations, and do not prohibit employees from obtaining loans from public lending institutions. It is particularly important that inspectors, contracting officers, and law enforcement officers guard against relationships that might be construed as evidence of favoritism, coercion, unfair advantage, or collusion.

#### **Section 4. Outside Employment**

The work of the County shall have precedence over other occupational interests of employees. All outside employment for salaries, wages, or commissions and all self-employment must be reported in advance to the employee's Department Head, who in turn will report it to the County Manager. The County Manager will review such employment for possible conflict of interest and then approve or disapprove the secondary employment. Conflicting and/or unreported outside employment is grounds for disciplinary action up to and including dismissal. Documentation of the approval of outside employment will be placed in the employee's personnel file.

Examples of conflicts of interest in outside employment *include **but are not limited to:***

- a) employment with organizations or in capacities that are regulated by the employee or employee's department; or
- b) employment with organizations or in capacities that negatively impact the employee's perceived integrity, neutrality, or reputation related to performance of the employee's duties with the County.

#### **Section 5. Dual Employment**

Rutherford County prohibits any employee from holding more than one position with Rutherford County.

#### **Section 6. Employment of Relatives**

Rutherford County may consider the hiring and employment of an Eligible Family member of another officer or employee of Rutherford County only if such hiring or employment does NOT:

- a) result in an Eligible Family member supervising another;
- b) result in an Eligible Family member auditing the work of another;
- c) create a conflict of interest with either Eligible Family member and the County;
- d) create any potential or appearance of favoritism for, between, or with an Eligible Family member, each other, or the County;
- e) result in an Eligible Family member having the authority of hiring, promoting, providing salary adjustments and disciplinary action over another.

This clause shall not be retroactive concerning any Eligible Family currently working for Rutherford County.

Failure to advise the County of the existence of one of these circumstances may result in a withdrawal of an offer of employment or discharge from employment. Existing employees who become involved in one of the foregoing circumstances have an obligation to advise the County of the conflict. Every effort will be made to resolve the conflict without loss of employment to either employee; however, the County reserves the right to transfer one or both employees, discharge one or both employees, or to demote one or both employees to resolve the conflict.

## **Section 7. Harassment Prevention**

Harassment on the basis of race, color, religion, gender, national origin, genetic information, veteran status, age or disability constitutes discrimination. The County will not tolerate Harassment or Sexual Harassment by supervisors and co-workers in any form.

For the purposes of this Personnel Policy, Harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his or her race, color, religion, gender, national origin, age, genetic information, veteran status, or disability, or that of his or her relatives, friends, or associates.

For the purposes of this Personnel Policy, Sexual Harassment is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when **a)** submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; **b)** submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or **c)** such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Any employee who believes that he or she may have a complaint of Harassment or Sexual Harassment may follow the Grievance Procedure described in the Rutherford County Personnel Policy. In the event the complaint involves the individual to whom the Grievance Procedure directs the employee to file the complaint, the complaint may be filed directly with the County Manager, Human Resources Officer or that employee's Department Head, who will advise the County Manager or County Attorney, after which time the complaint shall proceed in accordance with the Grievance Procedure. The Human Resources Officer will ensure that an investigation is conducted into any allegation of Harassment or Sexual Harassment and advise the employee and appropriate management officials of the outcome of the investigation.

Employees witnessing Harassment or Sexual Harassment shall also report such conduct to an appropriate Rutherford County official.

Employees making complaints of Harassment or Sexual Harassment are protected against retaliation from the alleged harasser, other employees, Supervisors or Department Heads, or management.

## **Section 8. Use of County Time, Equipment, Supplies, and Vehicles**

County equipment, materials, tools, supplies, and vehicles, shall not be available for personal use and are not to be removed from County property except in the conduct of official Rutherford County business, unless approved by the County Manager. No employee shall purchase for personal use any equipment, materials, tools, supplies or vehicles through County purchase accounts. During working hours, each employee shall only conduct Rutherford County business. Use of County time, equipment, materials, tools, supplies or vehicles for personal purposes or other purposes not related to the employee's County duties and responsibilities is prohibited and subjects the employee to disciplinary action, up to and including dismissal.

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

Rutherford County shall develop and distribute to employees a separate policy covering the use of



phones, email, computers, and county cell phones.

Under North Carolina law, emails sent or received by Rutherford County are considered a public record and is subject to inspection upon request.

Surrender of Property: An employee who terminates employment shall be required to return all items of equipment, tools and supplies, including uniforms, owned by the County. Failure to do so may result in a deduction for replacement costs from the final pay check of the employee.

### **Section 9. Performance Evaluation**

Department Heads and Supervisors shall conduct Performance Evaluation conferences with each employee at least once a year. These performance evaluations shall be documented in writing and placed in the employee's personnel file. Procedures for the performance evaluation program shall be published by the Human Resources Office with the approval of the County Manager.

### **Section 10. Safety**

Safety is the responsibility of both the County and its employees. It is the policy of Rutherford County to establish a safe work environment for employees. The County shall establish a safety program including policies and procedures regarding safety practices and precautions and training in safety methods. Department Heads and Supervisors are responsible for insuring the safe work procedures, including the use of all required personal protective equipment and providing necessary safety training programs, of their department. Employees shall follow the safety policies and procedures and attend safety training programs. Employees who violate such policies and procedures shall be subject to disciplinary action up to and including dismissal.

Additional detailed procedures regarding safety, worker's compensation, injury, and infection control may be established by the County Manager.

### **Section 11. Substance Abuse Policy**

Rutherford County is committed to maintaining a drug and alcohol-free work environment in order to insure the safety and welfare of the general public and all County employees and to insure an efficient and effective work force. Rutherford County prohibits employees reporting to work with their ability to perform impaired by alcohol, illegal drugs, intentionally and inappropriately used prescriptions, over-the-counter drugs, or other chemicals and substances. A separate Substance Abuse Policy will be maintained by Rutherford County and provided to all employees.

### **Section 12. Credentials and Certifications**

Some duties assigned to positions in local government service may be performed only by persons who are duly licensed, registered or certified as required by the relevant law, rule or regulation. Employees in such classifications are responsible for maintaining current, valid credentials as required by law, rule or regulation. Failure to obtain or maintain the required credentials is a basis for immediate dismissal without prior warning. An employee who is dismissed shall be given a written statement of the reason for the action and the employee's rights to appeal the dismissal.

### **Section 13. Use of Tobacco Products**

Smoking and the use of tobacco products are prohibited in all county-owned or leased buildings and vehicles. Smoking is not allowed within fifty (50) feet of a public entrance unless a variance is issued by the County Manager. When granted, smoking areas shall be clearly designated. The prohibition against tobacco products includes e-cigarettes or other devices which provide a vapor or nicotine substance and inhaler devices that simulate smoking.

### **Section 14. Workplace Violence Prevention**

The County is committed to preventing workplace violence and to maintaining a safe and productive work environment that ensures employees are free from intimidation, harassment or other threats of or actual violence. All employees should show and receive respect in all working relationships including coworkers, supervisors, and vendors. Physical violence, bullying, stalking, use of threatening language, and “horseplay” are examples of prohibited conduct. Such behavior is subject to disciplinary action up to and including dismissal.

Employees should immediately report any such prohibited conduct or other behavior that feels threatening or intimidating to their supervisor. County officials will investigate all reports of threats or violence.

Employees must promptly inform the Human Resources Department of any protective or restraining order they have obtained or received. In addition, employees are encouraged to report any threats of or actual domestic abuse so that the County may provide necessary support and security.

Rutherford County will act to protect the confidentiality of employees as regards to this policy to the extent possible while still taking necessary steps to protect the safety of employees.

### **Section 15. Lactation Support for Nursing Mothers**

Rutherford County is committed to family-friendly policies and benefits and accommodates breastfeeding mothers who wish to express breast milk during the workday when separated from the new born. Rutherford County provides reasonable break times to express breast milk for the child for up to one (1) year after the child’s birth.

Breast milk must be labeled with the name of the employee and date of expressing the breast milk when placed in a workplace refrigerator. The employee storing milk in the refrigerator assumes all responsibility for the safety of the milk and the risk of harm for any reason, including improper storage, refrigeration and/or tampering.

Any employee who is a nursing mother should work with the Human Resources Department to identify a room in the employee’s work area where the employee may express milk. Employees who work off-site or in other locations will also be accommodated with a private area as necessary.

For more information regarding this issue, see the FLSA guidelines regarding lactation provisions.

## **ARTICLE VI. EMPLOYEE BENEFITS**

### **Section 1. Eligibility**

All Full-time employees and Part-time employees are eligible for employee benefits as provided for in this Article. All employee benefits are subject to change at the County's discretion and at annual budget appropriations. Limited Service employees are eligible only for legally mandated benefits such as workers' compensation and social security.

### **Section 2. Group Health and Dental Insurance**

The County provides group health, dental, and life insurance programs for Full-time employees and eligible Part-time employees and their families as specified under the terms of the group insurance contract. Limited Service employees are not eligible for these programs.

Rutherford County currently provides a 70/30 health insurance plan for Full-time employees and eligible Part-time employees. Rutherford County will comply with the Affordable Care Act by providing health insurance for all employees expected to work thirty (30) or more hours per week for three (3) or more consecutive months. Full-time employees and Part-time employees may, if they so desire, purchase available group health, dental and/or life coverage through the County for qualified dependents within the stipulations of the insurance contract. Eligible employees will pay the amount stipulated by the County for their qualified dependents.

Information concerning cost and benefits shall be available to all employees from the Human Resources Office.

Insurance benefits can be changed by the Board of County Commissioners at any time.

### **Retiree Health Insurance**

Employees are subject to the provisions of the State Health Plan regarding retiree health insurance, a copy of which may be obtained from the Human Resources office or by visiting the State Health Plan website [www.shpnc.org](http://www.shpnc.org).

### **Section 3. Group Life Insurance**

Rutherford County provides paid life insurance to its Full-time and eligible Part-time employees. Information on costs, coverage, and benefits are available from the Human Resources Office.

### **Section 4. Other Optional Group Insurance Plans**

Rutherford County may make other group insurance plans available to employees upon authorization of the County Manager or the Board of County Commissioners. For information about optional group benefit programs, employees may contact the Human Resources Office.

### **Section 5. Retirement**

Each employee in a permanent position who is expected to work for Rutherford County more than 1,000 hours annually shall join the North Carolina Local Governmental Employees' Retirement System when eligible as a condition of employment and make the stipulated contribution.

## **Supplemental Retirement Benefits**

Rutherford County provides supplemental retirement benefits for its Full-time and Part-time employees. As prescribed by North Carolina State Law, Rutherford County will contribute a percentage of salary to the State 401k plan for each sworn law enforcement officer.

All Full and Part-time employees may make voluntary contributions to the 401k plan up to the limits established by law and the 401k provider. The County may make employer contributions to the plan on behalf of the employee per approval of the Rutherford County Board of Commissioners.

## **Section 6. Social Security**

Rutherford County, to the extent of its lawful authority and power, has extended Social Security benefits to its eligible employees.

## **Section 7. Worker's Compensation**

All employees of Rutherford County (Full-time, Part-time, and Limited Service) are covered by the North Carolina Workers Compensation Act and are required to report all injuries arising out of and in the course of employment to their immediate supervisors at the time of the injury in order that appropriate action may be taken. Each employee along with the employee's supervisor should provide records of all such injuries to the Human Resources Office within two (2) days of the injury. Failure to report an injury to the Human Resources Office within the specified time may result in disciplinary action for the employee and/or the employee's supervisor.

Employees may use available sick leave and/or vacation leave both during the waiting period before Workers Compensation benefits begin and afterward to supplement the remaining one-third (1/3) of salary, except that employees may not exceed the regular salary amount using this provision. This provision also applies to reactions to small pox vaccinations administered to County employees under Section 304 of the Homeland Security Act. Such reactions shall be treated the same as any other Workers Compensation claim as regards to leave and salary continuation.

Injury claims must be filed with the North Carolina Industrial Commission within two (2) years from date of injury. The Human Resources Office will coordinate the filing of such claims.

## **Section 8. Unemployment Compensation**

All employees are covered for unemployment compensation. Employees who are terminated due to a reduction in force or released from Rutherford County service may apply for benefits through the local Division of Employment Security office, where a determination of eligibility will be made.

## **Section 9. Law Enforcement Separation Allowance**

Every sworn law enforcement officer, as defined by N.C. Gen. Statute 128-21(11b) or N.C. Gen. Statute 143-166.50, shall be eligible for a separation allowance, as provided by N.C. Gen. Statute 143-166.42, in the amount specified in N.C. Gen. Statute 143-166.41(a).

Eligibility and continuation of these benefits are subject to the following conditions:

- a) The officer shall have completed thirty (30) or more years of creditable service, or have attained fifty-five (55) years of age and completed five (5) or more years of creditable service (as defined in General Statute 143-166.42); and

- b) The officer shall not have attained sixty-two (62) years of age;
- c) The officer shall have completed at least five (5) years of continuous service as a law enforcement officer immediately preceding a service retirement, as defined by N.C. Gen. Statute 143-166.41(a)(3) and 143-166.41(b).
- d) The law enforcement officer, after separation from County employment, notifies the County of any new employment involving local law enforcement duties. Such notification shall include the nature and extent of the employment, and any change of employment status.

Payment of separation allowance benefits to a retired officer shall cease at the first of:

- a) The death of the officer;
- b) The last day of the month in which the officer attains sixty-two (62) years of age; or
- c) The first day of re-employment in any position in any local government in North Carolina where the employee is required to join the local government retirement system (working 1000 hours or more).

Should the separation allowance for law enforcement officers, now required by law, be rescinded, this separation allowance referenced above shall be rescinded at the same time.

Rutherford County may employ retired officers in a public safety position in a capacity not requiring participation in the Local Government Employees Retirement System and doing so shall not cause payment to cease to those officers under these benefits. Participation in the retirement system is required by anyone scheduled to work 1000 hours per rolling twelve (12) month period.

#### **Section 10. Credit Union Membership**

Employees of Rutherford County are eligible for membership in the North Carolina Local Employee's Federal Credit Union. Employees may also be eligible to participate in the State Employees' Credit Union.

## **ARTICLE VII. HOLIDAYS AND LEAVES OF ABSENCE**

### **Section 1. Policy**

The policy of Rutherford County is to provide vacation leave, sick leave, and holiday leave to all Full-time and eligible Part-time employees (but not Limited Service employees) in a regular position with Rutherford County and to provide proportionally equivalent amounts to employees having average work weeks of different lengths. Leave balances should accrue with each payroll at a prorated amount when employees work or are on a paid leave status.

### **Section 2. Holidays**

The policy of Rutherford County is to follow the holiday schedule as published by the State of North Carolina each year. The schedule for the calendar year will be published by December 1 of the previous calendar year for distribution to County employees.

In order to receive a paid holiday, an employee must have worked a full day before and a full day after the holiday(s), or have been given approved paid leave. Approved paid leave shall include vacation leave, sick leave, merit leave, shared leave, or compensatory leave that is approved by the Department Head.

Employees wishing to schedule time off for religious observances may request vacation leave in writing from their respective Department Head. The Department Head will attempt to arrange the work schedule so that an employee may be granted vacation leave for the religious observance. Vacation leave for religious observances may be denied only when granting leave would create an undue hardship for the County.

The number of holiday hours earned by employees shall be determined in accordance with the formula set forth in Section 16 of this Article.

Departments which have staff working during holidays may designate which days of the week are to be observed using the actual legal holidays when appropriate.

### **Section 3. Holidays: Effect on Other Types of Leave**

Regular holidays which occur during a vacation, sick or other leave period of any employee shall not be counted as part of that employee's vacation, sick, or other leave.

### **Section 4. Holidays: Compensation When Work is Required**

Employees required to perform work on regularly scheduled holidays may receive the proportionally equivalent amount off for the holiday or receive pay in lieu of time off as described in Section 16 of this Article.

If a holiday falls on a regularly scheduled off-duty day for shift personnel, the employee will receive the hours paid for the proportionately equivalent holiday leave. Whether holiday time is provided in time or pay for shift employees is determined by the County. Employees shall receive holiday compensation in hours or pay based on the pro-rata amount identified in Section 16 of this Article.

## **Section 5. Vacation Leave**

Vacation is a privilege granted by Rutherford County. Vacation leave may be used for rest and relaxation, school appointments, and other personal needs. Employees must request vacation leave from their Department Head in advance following the leave request procedure established for that department. Vacation leave may also be used by employees who wish to observe religious holidays other than those granted by the County, upon request in advance. Supervisors are responsible for insuring proper staff coverage and may refuse vacation requests when they create a hardship for the County. Part-time employees will be prorated as shown in Section 16 of this Article. Limited Service employees are not eligible for pro-rated vacation accrual.

## **Section 6. Vacation Leave: Use by Probationary Employees**

Probationary Employees serving a probationary period following initial employment may accumulate vacation leave but shall not be permitted to take vacation leave during the first six (6) months of employment unless denial of such leave will create an unusual hardship. In cases of unusual hardship, the vacation leave should be approved by the Department Head. Employees serving a twelve (12) month probationary period shall be allowed to take accumulated vacation leave after six (6) months of acceptable service.

## **Section 7. Vacation Leave: Accrual Rate**

Each Full-time employee of Rutherford County shall earn vacation at the following schedule. Accrual rates for Full-time employees and eligible Part-time employees will be prorated as shown in Section 16 of this Article. Limited Service employees are not eligible for pro-rated vacation accrual.

<b>Years of Service</b>	<b>Days Accrued Per Year</b>
0 – 2	10
2 – 5	12
5 – 10	15
10 - 15	18
15 plus	21

Vacation should be accrued in each payroll period.

## **Section 8. Vacation Leave: Maximum Accumulation**

Vacation leave may be accumulated without any applicable maximum until the last pay period of the calendar year. Any employee with a balance exceeding 225 hours (pro-rated according to Section 16) shall have the excess accumulation transferred to sick leave so that only a balance of 225 hours is carried forward to January 1.

Regardless of accumulated balance, if an employee separates from service, the payment for accumulated vacation leave shall not exceed 225 hours. Employees are not eligible to receive pay for vacation time not taken.

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

exception to the maximum accumulation. Employees may not receive pay for excess vacation time.

### **Section 9. Vacation Leave: Manner of Taking**

Employees shall be granted the use of earned vacation leave upon request in advance in accordance with departmental procedure and at those times designated by the Department Head which will least disrupt normal operations of the department or of Rutherford County. Department Heads are responsible for insuring that approved vacation leave does not hinder the effectiveness of service delivery.

### **Section 10. Vacation Leave: Payment upon Separation**

An employee who has successfully completed six (6) months of the probationary period will normally be paid for accumulated annual leave upon separation subject to the 225 hour maximum (pro-rated according to Section 16), provided notice is given to the supervisor at least two (2) weeks in advance of the effective date of resignation.

Any employee failing to give the notice required by this section shall forfeit payment for accumulated leave. The notice requirement may be waived by the County Manager when deemed to be in the best interest of Rutherford County.

Regular employees who are involuntarily separated shall receive payment for accumulated vacation leave not to exceed 225 hours. At the discretion of the County Manager, employees dismissed for serious violations of personal or criminal conduct may be determined ineligible to receive vacation pay.

### **Section 11. Vacation Leave: Payment upon Death**

The estate of an employee who dies while employed by Rutherford County shall be entitled to payment of all the accumulated vacation leave credited to the employee's account not to exceed the 225 hour maximum.

### **Section 12. Sick Leave**

Sick leave with pay is not a right which an employee may demand, but a privilege granted for the benefit of an employee when sick. Sick leave may be granted to an employee absent from work for any of the following reasons: sickness, bodily injury, required physical or dental examinations or treatment, or exposure to a contagious disease, when continuing work might jeopardize the health of others.

Sick leave may be used when an employee must care for an Immediate Family member who is ill, but may not be used to care for healthy children when the regular care giver is sick.

Sick leave may also be used 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.

Notification of the desire to take sick leave should be submitted to the employee's supervisor prior to the leave or not later than the beginning of the scheduled shift/workday. Failure to do so appropriately may result in disciplinary action.



### **Section 13. Sick Leave: Accrual Rate and Accumulation**

Sick leave shall accrue at a rate of twelve (12) days per year. Sick leave for Full-time employees and Part-time employees shall be pro-rated as described in this Article. Limited Service employees are not eligible for sick leave.

Sick leave will be cumulative for an indefinite period of time and may be converted upon retirement for service credit consistent with the provisions of the North Carolina Local Government Employees' Retirement System.

All sick leave accumulated by an employee shall end and terminate without compensation when the employee resigns or is separated from Rutherford County, except as stated above for retirement or upon reinstatement with one (1) year of separation after reduction in force.

### **Section 14. Transfer of Sick Leave from Previous Employer**

The County will accept sick leave balances when documented by a previous employer when the employee worked for a previous employer covered by the North Carolina State or Local Government Retirement System and the employee did not withdraw accumulated retirement contributions from that employer when leaving employment.

The sick leave will be treated as though it were earned with Rutherford County and may be used as any other accrued sick leave by the employee. The sick leave amount must be certified by the previous employer and it is the employee's responsibility to provide documentation from the employee's previous employer within three (3) months of employment. Transferred sick leave will be credited to the employee upon successful completion of six (6) months of employment.

### **Section 15. Sick Leave: Medical Certification**

The employee's Department Head may require a physician's certificate stating the existence of the employee 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." The employee may be required to submit to such medical examination or inquiry as the Department Head deems desirable. The Department Head shall be responsible for the application of this provision to the end that:

- a) employees shall not be on duty when they might endanger their health or the health of other employees; and
- b) there will be no abuse of leave privileges.
- c) claiming sick leave under false pretense to obtain a day off with pay shall subject the employee to disciplinary action.

### **Section 16. Leave Pro-Rated**

Holiday, annual, and sick leave earned by Full-time and Part-time employees with fewer or more hours than the basic work week (37.5 hours) shall be determined by the following formula:

- 1) The number of hours scheduled for work per week by such employees shall be divided by the number of hours in the basic work week (usually 37.5 hours). This obtains the ratio.

- 2) The ratio obtained in step 1 shall be multiplied by the number of hours of leave earned annually by employees working the basic work week (37.5 hours).
- 3) The number of hours in step 2 divided by twelve (12) shall be the number of hours of leave earned monthly by the employees concerned; the number of hours in step 2 divided by 26 is the number of leave hours earned biweekly, and divided by 52 would be the amount of leave earned weekly.
- 4) A "day" for the purposes of leave is defined as the number of hours obtained by multiplying the ratio by 7.5 (the number of hours in a 37.5-hour week day.)

For purposes of this policy, Rutherford County identifies three types of work weeks for Full-time employees: 37.5 hours, 40 hours, and 42 hours. Hours are determined by departmental type: Regular employees, Solid Waste employees, or Emergency Service Personnel which includes EMS, 911, and Sheriff.

### **Section 17. Funeral Leave**

An employee may be granted up to three (3) days at full pay in case of death of an Eligible Family member.

Additional time or time to attend funerals of individuals who are not Eligible Family may be charged to vacation leave, compensatory time or leave without pay. Time may be requested and will be granted based upon such criteria as travel time, time needed for making arrangements, and other relevant matters.

### **Section 18. Family Medical Leave**

The County will grant up to twelve (12) weeks of family medical leave during any rolling twelve (12) month period beginning on the date leave is first used by eligible employees in accordance with the Family and Medical Leave Act of 1993 (FMLA). FMLA and Workers' Compensation will normally run concurrently. Eligible employees must have regular status and must have been employed at least twelve (12) months and worked at least 1,250 hours during the previous twelve (12) months. The leave may be paid (coordinated with the County's Vacation and Sick Leave policies), unpaid, or a combination of paid and unpaid. Additional time away from the job beyond the twelve (12) week period may be considered in accordance with the County's Leave Without Pay policy. Employees may be required to exhaust eligible paid leave before going on a Leave without Pay status.

FMLA leave may be taken for the following reasons:

- (a) to care for the employee's child after birth or placement for adoption or foster care;
- (b) to care for the employee's spouse, child or parent who has a serious health condition; or
- (c) for a serious health condition that makes the employee unable to perform the employee's job.

A serious health condition is defined as a condition which requires inpatient care at a hospital, hospice, or residential medical care facility, or a condition which requires continuing care by a licensed health care provider. This policy covers illness of a serious and long-term nature resulting in recurring or lengthy absences. Generally, a chronic or long term health condition which results in

a period of incapacity for more than three (3) days would be considered a serious health condition.

If a husband and wife both work for Rutherford County and each wishes 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 total of twelve (12) weeks leave under FMLA.

An employee taking leave for the birth of a child may use paid sick leave for the period of actual disability, based on medical certification. The employee shall then use all paid vacation, accrued compensatory time and leave without pay for the remainder of the twelve (12) week period.

“Military Exigency” is a qualifying exigency arising out of the fact that the employee’s spouse, son, daughter, or parent is a military service member (reserve or National Guard) under a call or order to federal active duty in support of a contingency operation. Qualifying events are:

- 1) deployment of service member with seven or fewer days’ notice;
- 2) military ceremonies and events such as family-assistance or informational programs related to the family member’s active duty or call to active duty;
- 3) urgent, immediate childcare or arranging for alternative childcare for the children of service members;
- 4) attending school or daycare meetings relating to the child of service member;
- 5) making financial or legal arrangements related to a family member’s active duty status or call to active duty;
- 6) taking up to five (5) days leave to spend with a covered military member who is on short-term temporary rest and recuperation leave during deployment;
- 7) attending counseling provided by someone other than a health provider for oneself, the covered military member, or the child of the military member, the need for which arises from the active duty service or call to active duty status or the covered military member; or
- 8) post-deployment activities for a period of ninety(90) days after the termination of the service member’s active duty status.

Military Caregiver Leave: An employee whose spouse, son, daughter, parent or next of kin is a current service member who is undergoing treatment, therapy, recuperation or outpatient treatment or has temporary disability retirement for injury or illness sustained in the line of duty, is eligible for twenty-six (26) weeks of FMLA leave in a single twelve (12) month period. During a single twelve (12) month period, the employee is eligible for a total of twenty-six (26) weeks of all types of FMLA Leave combined.

The request for the use of leave must be made in writing by the employee and approved by the Department Head or County Manager. Rutherford County may also designate qualified leave as FMLA Leave by notifying the employee of such action.

An employee who takes leave under this policy will return to the same job or a job with equivalent status, pay, benefits, and other employment terms. The position will be the same or one which entails substantially equivalent skill, effort, responsibility, and authority.

#### **Section 19. Family and Medical Leave: Medical Certification**

In order to qualify for leave under this law, Rutherford County requires medical certification. Forms are available on the Rutherford County website ([www.rutherfordcountync.gov](http://www.rutherfordcountync.gov)) and/or the Human Resources Office. The statement from the employee's or the employee's Immediate Family

member's physician should include the date when the condition began, its expected duration, diagnosis, and brief statement of treatment. For the employee's own health condition, it should state that the employee is unable to perform the essential functions of the employee's position. For a seriously ill Immediate Family member of the employee, the certification must include a statement that the patient requires assistance and the employee's presence would be beneficial or desirable.

This certification should be furnished at least thirty (30) days prior to the needed leave unless the employee's or the employee's Immediate Family member's condition is unforeseen. The certification should be furnished as soon as possible (no longer than fifteen (15) days from the date of the employee's request). The certification and request must be made to the Department Head and filed with the Human Resources Officer.

The employee is expected to return to work at the end of the time frame stated in the medical certification, unless the employee has requested additional time in writing under the County's Leave without Pay policy.

#### **Section 20. Family Medical Leave and Leave without Pay: Retention and Continuation of Benefits**

When an employee is on leave under FMLA, Rutherford County will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work. If an employee chooses not to return to work for reasons other than a continued serious health condition, the County will require the reimbursement of the amount paid for the employee's health insurance premiums during the FMLA leave period.

Other insurance and payroll deductions are the responsibility of the employee and the employee must make those payments to Rutherford County by the first (1<sup>st</sup>) day of each month for continued coverage of that benefit. Failure to make payment to Rutherford County as set forth herein may lead to cancellation of the benefit.

After using all paid leave for which the employee qualifies, the employee on FMLA may use Leave without Pay for the remainder of the FMLA 12/26 week entitlement. An employee ceases to earn holiday or leave credits on the date leave without pay begins.

#### **Section 21. Leave Without Pay**

A Full-time employee may be granted a leave of absence without pay for a period of up to six (6) months by the County Manager. The leave may be used for reasons of personal disability, sickness or disability or for reasons related to the Family Medical Leave Act, continuation of education, special work that will permit Rutherford County to benefit by the experience gained or the work performed, or for other reasons deemed justified by the County Manager.

The employee shall apply in writing to the County Manager for leave. The employee is obligated to return to duty within or at the end of the time determined appropriate by the County Manager. Upon returning to duty after being on leave without pay, the employee shall be entitled to return to the same position held at the time leave was granted or to one of like classification, seniority, and pay.

If the employee decides not to return to work, the Department Head shall be notified immediately. Failure to report at the expiration of a leave of absence, unless an extension has been requested and granted, shall be considered a resignation.

An employee shall retain all unused vacation and sick leave while on Leave without Pay. An employee ceases to earn holiday or leave credits on the date leave without pay begins. The employee may continue to be eligible for benefits under the County's Group insurance plans at the employee's own expense, subject to any regulation adopted by the Board of County Commissioners and the regulations of the insurance carrier. If the Leave without Pay is for a circumstance that coincides with FMLA or USERRA then the provisions of those policies will apply.

## **Section 22. Workers' Compensation Leave**

Employees absent from duty because of sickness or disability covered by the North Carolina Workers' Compensation Act may elect to use accrued sick leave, vacation, or compensatory time during the first waiting period of seven (7) days. In addition, the employee may continue to use one third (1/3) of a day of sick, vacation or compensatory leave once workers' compensation begins not to exceed a regular pay check amount. Part-time and Limited service employees who have a worker's compensation claim will be directed by the Worker's Compensation agent concerning payment of missed wages. Worker's compensation leave is normally a Leave without Pay; however, an employee can choose to use accrued leave to compensate for the one-third (1/3) not covered by worker's compensation.

Any workers' compensation disability that qualifies under the requirements of FMLA shall run concurrently with FMLA. An employee on workers' compensation Leave without Pay will be permitted to continue to be eligible for benefits under the County's Group Insurance plans during the period of worker's compensation leave that is concurrent with FMLA.

Other insurance and payroll deductions are the responsibility of the employee and the employee must make those payments for continued coverage of that benefit. Any amounts owed are due and payable by the first (1<sup>st</sup>) day of each month to Rutherford County. Failure to make payment to Rutherford County as set forth herein may lead to cancelation of the benefit.

An employee shall retain all unused vacation and sick leave while on Worker's Compensation Leave without Pay unless employee elects to use such leave to receive one-third (1/3) pay while absent. An employee ceases to earn holiday or leave credits on the date Worker's Compensation Leave without Pay begins. After the period of FMLA eligibility ends, the employee may continue to be eligible for benefits under the County's group insurance plans at the employee's own expense subject to the regulations of the insurance carrier.

## **Section 23. Military and other USERRA Leave**

The County will fully comply with the requirements of the 1994 Uniformed Services Employment and Re-Employment Rights Act (USERRA) and related federal regulations.

For the purposes of USERRA covered employees are the following:

1. Armed Forces Active and Reserve (Army, Navy, Marine Corps, Air Force, Coast Guard)
2. Army National Guard and Air National Guard
3. FEMA's Disaster Assistance Teams
4. Commissioned Corps of the Public Health Service

5. Military Service Academies
6. Reserve Officer's Training Corps (ROTC)

Employees taking leave under USERRA shall be eligible to take accumulated vacation leave, accrued compensatory time or be placed in a leave without pay status, and the provisions of that leave shall apply. While taking USERRA leave, the employee's unused leave balances will be retained and any seniority based benefits such as leave accrual rates will continue to accrue.

Employees performing USERRA duty of more than thirty-one (31) days may elect to continue the County's health care for up to twenty-four (24) months but will be responsible for paying the insurance premiums up to 100% of the premium costs. Employees whose USERRA duty is less than thirty-one (31) days will have their health insurance coverage paid as if they were at work with Rutherford County.

### **Military Training**

In addition to complying with the requirements of USERRA, Rutherford County provides additional benefits for military training. Full-time employees who are members of an Armed Forces Reserve organization or National Guard shall be granted fifteen (15) calendar days per year for Military Leave with Pay. If the compensation received while on military leave is less than the salary that would have been earned during this same period as a County employee, the employee shall receive partial compensation equal to the difference. The effect will be to maintain the employee's salary at the normal level during this period.

If such duty is required beyond the fifteen (15) calendar days, the employee shall be eligible to take accumulated vacation leave or be placed in a leave without pay status, and the provisions of that leave shall apply. While on military leave, seniority-based benefits such as leave accrual rates shall continue to accrue as if the employee was actively at work. Employees on extended military leave will remain eligible for health benefits on a voluntary basis, at the employee's expense for a period of twenty-four (24) months.

Part-time and Limited Service employees will be granted time off without pay to meet their military reserve or National Guard training obligations.

### **Section 24. Reinstatement Following Military Service**

An employee who volunteers or is called to active duty with the United States military forces, and who returns to work in less than five (5) years will be returned to the same or like position of which the employee occupied prior to the active duty enlistment with full seniority, status, leave accrual rates and pay as if there had been no break in employment. A military discharge form "DD214" with an honorable discharge must be submitted with the notification of intent to return to work.

Time limits for employees to reapply for return to work after release from military service are:

- 1) Less than thirty-one (31) days absence - employee must report to employer by the next business day.
- 2) 31 days-180 days absence - notification to the supervisor must be submitted within fourteen (14) days.
- 3) More than 180 days absence - notification to the supervisor must be submitted within

ninety (90) days.

All reporting deadlines are extended for two (2) years if the employee is injured during USERRA service.

### **Section 25. Civil Leave**

Full-time employees called for jury duty or as a court witness for the Federal or State Government, or a subdivision thereof, shall receive leave with pay for such duty during the required absence without charge to accumulated leave. The employee may keep fees and travel allowances received for jury or witness duty in addition to regular compensation; except, that employees must turn over to the County any witness fees or travel allowance awarded by the court for court appearances in connection with official duties. While on civil leave, benefits and leave shall accrue as though on regular duty.

### **Section 26. Parental School Leave**

An employee who is a parent, guardian, or person standing in loco parentis (in place of the parent) may take up to a maximum of four (4) hours of paid leave (not counted against vacation) annually to involve him or herself in school activities of his or her child(ren) in kindergarten through high school. This leave is subject to the three following conditions:

- 1) The leave must be taken at a time mutually agreed upon by the employee and Rutherford County;
- 2) Rutherford County may require the employee to request the leave in writing at least 48 hours prior to the time of the desired leave; and
- 3) Rutherford County may require written verification from the child's school that the employee was involved at the school during the leave time.

### **Section 27. Voluntary Shared Leave**

When a medical condition of an employee or an Immediate Family member of such employee requires an employee's absence from work for a prolonged period of time resulting in possible loss of income because of lack of accumulated leave, fellow employees may voluntarily donate some of their vacation leave.

Vacation leave donations may not exceed the donating employee's annual accrual amount. Nor may donations reduce the donating employee's leave balance below one-half of the annual leave accrual rate.

Employees are eligible to receive Shared Leave after working full-time for Rutherford County for one (1) year. Shared Leave requests should be submitted as prescribed by the Human Resources Department. Shared Leave requests may be denied based on issues such as previous attendance patterns, work performance issues, and operational needs of the County.

Employee must exhaust all accumulated leave (vacation, sick, comp, merit, free day) prior to receiving Shared Leave. An employee is eligible for no more than six (6) weeks of Shared Leave during any twelve (12) month period.

### **Section 28. Adverse Weather and Emergency Conditions**

Rutherford County has the responsibility for providing emergency services. Adequate staff is required to operate these critical services seven (7) days per week and twenty-four (24) hours per day in all weather. The County Manager, upon recommendation of department heads, should designate which employees are in critical positions required to report to work regardless of weather or other hazardous conditions.

The adverse weather/hazardous conditions policy is established to be as fair as possible to all employees applying the following principles:

- a) maintain adequate staffing of emergency services at all times;
- b) provide for as much safety as possible for all employees in traveling to and from work in hazardous conditions; and

In the event of an inclement weather closing, employees on previously approved leave will remain on that leave, not inclement weather leave.

Rutherford County offices and departments shall remain open for the full scheduled working day unless authorization for closing or other deviation is received from the County Manager's office. The County Manager will consider the hazard of driving conditions and other relevant factors in determining whether to close Rutherford County offices. To the extent possible, all departments and offices will be given sufficient advance notice of any authorized closing of non-critical County functions.

Employees in non-critical positions who leave work before an official early closing time; as well as, employees who report for work late or do not report for work because of hazardous conditions may use earned vacation or compensatory leave for days or hours not worked. In all cases, employees must contact the employee's supervisor to inform them of the need to take this leave. Employees in designated critical positions may be subject to disciplinary action for failure to report to work as required.

### **Section 29. Civic Leave**

Rutherford County provides up to four (4) hours of paid time each year for employees to volunteer in civic activities. Request for leave for civic activities should be submitted in advance to the employee's supervisor who will approve it based on the ability to allow the leave at that time. In some cases, documentation of a civic activity may be requested before leave is approved. Leave granted for the employee's participation in civic activities must be noted as "Civic leave" on employee's timesheet.

### **Section 30. Directed Use of Leave**

When an employee requests leave for any purpose, Rutherford County reserves the right to direct an employee to use accumulated compensatory time and/or accrued merit leave first, in that order, prior to use of vacation and/or sick leave.



## **ARTICLE VIII. SEPARATION AND REINSTATEMENT**

### **Section 1. Types of Separations**

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

### **Section 2. Resignation**

An employee may resign by submitting the reasons for resignation and the effective date in writing to the immediate supervisor as far in advance as possible. In all instances, the minimum notice requirement is two (2) calendar weeks. Failure to provide minimum notice shall result in forfeit of payment for accumulated annual leave unless the notification requirement is waived upon recommendation of the Department Head or Human Resource Officer and approved by the County Manager.

Three (3) consecutive days of absence during the notice period, prior to an employee's resignation, without contacting the immediate supervisor or Department Head shall be considered a voluntary resignation. Sick leave will only be approved during the final two (2) weeks of a notice with a physician's certification or comparable documentation.

### **Section 3. Reduction in Force**

In the event that a reduction in force becomes necessary, consideration shall be given to the quality of each employee's performance, organizational needs, and seniority in determining those employees to be retained. Employees who are separated because of a reduction in force shall be given at least a two (2) week notice of the anticipated action. No regular employee, who is also a Full-time employee shall be separated because of a reduction in force while there are Part-time, Limited service, or employees serving in the same class in the department, unless the Regular employee is not willing to transfer to the position held by the Part-time, Limited service or probationary employee.

### **Section 4. Disability**

Rutherford County will comply with the Americans with Disabilities Act and will make all responsible efforts to provide reasonable accommodations to employees who may be or become disabled. An employee who cannot perform the essential functions of a position with or without reasonable accommodation because of a physical or mental impairment may be separated for disability. Action may be initiated by the employee or the County. In all cases initiated by the employee, such action must be accompanied by medical evidence acceptable to the Department Head, Human Resource Officer, and County Manager. The County may require an examination, at the County's expense, performed by a physician of the County's choice.

Employees who meet the requirements of the North Carolina Local Governmental Employees Retirement System may qualify for a disability retirement. Information about this option is available from the Human Resources Office or the Retirement System.

### **Section 5. Voluntary Retirement**

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

### **Section 6. Death**

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

### **Section 7. Dismissal**

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

### **Section 8. Reinstatement**

An employee who is separated because of a reduction in force or who resigns while in good standing may be reinstated within one (1) year of the date of separation, upon recommendation of the Department Head. An employee who is reinstated in this manner shall be credited with the employees' previously accrued sick leave.

### **Section 9. Rehiring**

An employee who resigns while in good standing may be rehired with the approval of the Department Head, and shall be regarded as a new employee, subject to all of the provisions of rules and regulations of this Policy. An employee in good standing who is separated due to a reduction in force shall be given the first opportunity to be rehired in the same or a similar position.

## **ARTICLE IX. UNSATISFACTORY JOB PERFORMANCE AND DETRIMENTAL PERSONAL CONDUCT**

### **Section 1. Disciplinary Action for Unsatisfactory Job Performance**

A Regular employee, other than an employee of the Sheriff's Office, may be placed on disciplinary suspension, demoted, or dismissed for unsatisfactory job performance, if after following the procedure outlined below, the employee's job performance is still deemed to be unsatisfactory. The Human Resources Officer will be available to assist all parties with the procedures in taking or responding to disciplinary actions. All cases of disciplinary suspension, demotion, or dismissal must be approved by the Department Head prior to giving final notice to the employee.

### **Section 2. Unsatisfactory Job Performance Defined**

Unsatisfactory job performance includes any aspects of the employee's job which are not performed as required to meet the standards set by the Department Head or County Manager.

Examples of unsatisfactory job performance include, but are not limited to, the following:

- a) Demonstrated inefficiency, negligence, or incompetence in the performance of duties;
- b) Careless, negligent or improper use of County property or equipment;
- c) Physical or mental incapacity to perform duties after reasonable accommodation;
- d) Discourteous treatment of the public or other employees;
- e) Absence without approved leave;
- f) Improper use of leave privileges;
- g) Pattern of failure to report for duty at the assigned time and place;
- h) Failure to complete work within time frames established in work plan or work standards;
- i) Failure to meet work standards over a period of time.
- k) Failure to follow the chain of command to address work-related issues or
- l) Failure to maintain certifications required by the job.

### **Section 3. Communication and Warning Procedures Preceding Disciplinary Action for Unsatisfactory Job Performance**

When an employee's job performance is unsatisfactory, or when incidents or inappropriate actions warrant, the supervisor should meet with the employee as soon as possible in one (1) or more counseling sessions to discuss specific performance problems. A brief summary of these counseling sessions should be noted in the employee's file by the Department Head and a copy shall be sent to the Human Resources office. An employee whose job performance is unsatisfactory over a period of time should normally receive at least two (2) documented warnings, the second of which may be in the form of a final written warning, from the supervisor before disciplinary action resulting in dismissal is taken by the Department Head. However, the first

warning may be considered the final warning in order to avoid undue disruption of work; protect the safety of persons or property; or for other circumstances warranting a single warning to the employee.

The Department Head or Supervisor, as relevant, shall record each meeting with employee pursuant to this section in the employee's file in written form and shall include the dates of discussions with the employee, the performance deficiencies discussed, the corrective actions recommended, and the time limits set.

If the employee's performance continues to be unsatisfactory, then the supervisor should use the following disciplinary steps:

- a) A final written warning from the Supervisor serving notice upon the employee that corrected performance must take place immediately in order to avoid suspension, demotion, or dismissal.
- b) If performance does not improve, a written recommendation should be sent to the Department Head and Human Resource Officer for disciplinary action such as suspension, demotion, or dismissal. **Suspension and/or demotion are not required steps prior to dismissal.**

Disciplinary suspensions are for the purpose of communicating the seriousness of the performance deficiency, not for the purpose of punishment, and should not generally exceed three (3) days (24 working hours) for nonexempt employees. Suspensions for exempt employees shall be for one (1) full work week in accordance with FLSA requirements to maintain exempt status. Under FLSA, suspensions of less than one (1) week are authorized for major safety violations or infractions of workplace conduct rules (detrimental personal conduct).

Demotions are appropriate when an employee has demonstrated inability to perform successfully in the current job but shows the ability to perform successfully in a lower level job. If no other options are available, dismissal is appropriate.

If an employee has been placed on suspension or demotion, and the employee's performance does not reach an acceptable level, the employee may be dismissed. Dismissals are appropriate when the employee has shown the employee is unwilling or unable to perform work in a manner that meets the work and conduct standards of the County.

#### **Section 4. Disciplinary Action for Detrimental Personal Conduct**

Normally, the Department Head or Human Resource Director would place the employee on non-disciplinary suspension prior to making a disciplinary determination to allow time to gather facts regarding the detrimental personal conduct and make a determination regarding the severity of the conduct.

With the recommendation of the Department Head, an employee may be placed on disciplinary suspension, demoted, or dismissed without prior warning for causes relating to personal conduct detrimental to County service in order to

- a) avoid undue disruption of work;
- b) to protect the safety of persons or property; or

- c) for other serious reasons.

## **Section 5. Detrimental Personal Conduct Defined**

Detrimental personal conduct includes behavior of such a serious detrimental nature that the functioning of Rutherford County may be or has been impaired; the safety of persons or property may be or has been threatened; or the laws of the government may be or has been violated.

Examples of detrimental personal conduct include, but are not limited to, the following:

- a) Fraud or theft;
- b) Conviction of a felony or the entry of a plea of nolo contendere thereto;
- c) Falsification of records for personal profit, to grant special privileges, or to obtain employment;
- d) Willful misuse or gross negligence in the handling of Rutherford County funds or personal use of equipment or supplies;
- e) Willful or wanton damage or destruction to property;
- f) Willful or wanton acts that endanger the lives and property of others;
- g) Possession of unauthorized firearms or other lethal weapons on the job;
- h) Brutality in the performance of duties;
- i) Reporting to work under the influence of alcohol or drugs or partaking of such while on duty. Prescribed medication may be taken within the limits set by a physician as long as medically necessary;
- j) Engaging in incompatible employment or serving a conflicting interest;
- k) Request or acceptance of gifts in exchange for favors or influence;
- l) Engaging in political activity prohibited by this Policy;
- m) Harassment of an employee and/or the public on the basis of sex or any other protected class status; or
- n) Harassment of an employee or the public with threatening or obscene language and/or gestures or any incidence of workplace violence
- o) Stated refusal to perform assigned duties or flagrant violation of work rules and regulations, or serious malfeasance of work.

## **Section 6. Pre-Dismissal Conference**

Before dismissal action is taken, whether for detrimental personal conduct or unsatisfactory job performance of duties, the Department Head will conduct a pre-dismissal conference. The employee shall not be permitted an attorney at law or other legal counsel at the pre-dismissal

conference. At this conference, the employee may present any response to the proposed dismissal to the Department Head. The Department Head will consider the employee's response, if any, to the proposed dismissal, and will, within three (3) working days following the pre-dismissal conference, notify the employee in writing of the final decision. If the employee is dismissed, the notice shall contain a statement of the reasons for the action and the employee's appeal rights under the County's grievance procedure.

### **Section 7. Non-Disciplinary Suspension**

During the investigation, hearing, or trial of an employee on any criminal charge, or during an investigation related to alleged detrimental personal conduct, or during the course of any civil action involving an employee, when suspension would, in the opinion of the supervisor, be in the best interest of Rutherford County, the County Manager, Department Head or supervisor may suspend the employee for part or all of the duration of the proceedings as a non-disciplinary action. In such cases, the County may:

- a) Temporarily relieve the employee of all duties and responsibilities and place the employee on paid or unpaid leave for the duration of the suspension, or
- b) Assign the employee new duties and responsibilities and allow the employee to receive such compensation as is in keeping with the new duties and responsibilities.

If the employee is reinstated following the suspension such employee shall not lose any compensation or benefits to which otherwise the employee would have been entitled had the suspension not occurred. If the employee is terminated following suspension, the employee shall not be eligible for any pay from the date of suspension; provided, however, all other benefits with the exception of accrued annual leave and sick leave shall be maintained during the period of suspension.

## **ARTICLE X. GRIEVANCE PROCEDURE AND ADVERSE ACTION APPEAL**

### **Section 1. Policy**

It is the policy of Rutherford County to provide a just and prompt procedure for the presentation, consideration, and disposition of employee grievances. The purpose of this article is to outline the procedure and to assure all employees that a response to their complaints and grievances will be prompt and fair. The Human Resources Officer will be available to assist all parties in all departments with the procedures during the grievance process.

Employees utilizing the grievance procedures shall not be subjected to retaliation or any form of harassment from supervisors or employees for exercising their rights under this Personnel Policy. Supervisors or other employees who violate this policy shall be subject to disciplinary action up to and including dismissal from Rutherford County service.

### **Section 2. Grievance Defined**

A grievance is a claim or complaint by an employee based upon an event or condition, which affects the circumstances under which an employee works, allegedly caused by misinterpretation, unfair application, or lack of established policy pertaining to employment conditions.

### **Section 3. Purposes of the Grievance Procedure**

The purposes of the grievance procedure include, but are not limited to:

- 1) Providing employees with a procedure by which their complaints can be considered promptly, fairly, and without reprisal;
- 2) Encouraging employees to express themselves about the conditions of work which affect them as employees;
- 3) Promoting better understanding of policies, practices, and procedures which affect employees;
- 4) Increasing employees' confidence that personnel actions taken are in accordance with established, fair, and uniform policies and procedures;
- 5) Increasing the sense of responsibility exercised by supervisors in dealing with their employees;
- 6) Encouraging conflicts to be resolved between employees and supervisors who must maintain an effective future working relationship, and therefore, encouraging conflicts to be resolved at the lowest level possible in the chain of command; and
- 7) Creating a work environment free of continuing conflicts, disagreements, and negative feelings about Rutherford County or its leaders, thus freeing up employee motivation, productivity, and creativity.

## **Section 4. Grievance Procedure**

When an employee has a grievance, the following successive steps are to be taken unless otherwise provided. The number of calendar days indicated for each step should be considered the maximum, unless otherwise provided, and every effort should be made to expedite the process. However, the time limits set forth may be extended by mutual consent. The last step initiated by an employee shall be considered to be the step at which the grievance is resolved. A decision to rescind a disciplinary suspension, demotion or dismissal must be approved by the Department Head or County Manager before the decision becomes effective.

**Informal Resolution.** Prior to the submission of a formal grievance, the employee and supervisor should meet to discuss the problem and seek to resolve it informally. Either the employee or the supervisor may involve the Human Resources Office as a resource to help resolve the grievance.

**Step 1.** If no resolution to the grievance is reached informally, the employee who wishes to pursue a grievance shall present the grievance to the supervisor in writing. The grievance must be presented within fifteen (15) calendar days of the event or within fifteen (15) calendar days of learning of the event or condition. The supervisor shall respond to the grievance within ten (10) calendar days after receipt of the grievance. The supervisor should, and is encouraged to, consult with any employee of the County in order to reach a correct, impartial, fair and equitable determination or decision concerning the grievance. Any employee consulted by the supervisor is required to cooperate to the fullest extent possible.

The response from each supervisory level for each step in the formal grievance process shall be in writing and signed and dated by the supervisor. In addition, the employee shall sign a copy to acknowledge receipt thereof. The responder at each step shall send copies of the grievance and response to the Human Resources Officer.

**Step 2.** If the grievance is not resolved to the satisfaction of the employee by the supervisor, the employee may appeal, in writing, to the Department Head within ten (10) calendar days after receipt of the response from Step 1. The Department Head shall respond to the appeal, stating the determination of decision within ten calendar days after receipt of the appeal.

**Step 3. (Regular County employees only)** If the grievance is not resolved to the satisfaction of the employee of any department other than the Department of Social Services by the Department Head, the employee may appeal, in writing, to the County Manager, as relevant, within ten (10) calendar days after receipt of the response from Step 2. The County Manager shall respond to the appeal, stating the determination of decision within ten (10) calendar days after receipt of the appeal. The County Manager's decision is final. However, the County Manager should inform the County Board of Commissioners of any possible legal actions. Any appeal of this decision must be made through the North Carolina Court System.

**Step 3. (DSS employees only)** If the grievance is not resolved to the satisfaction of the Department of Social Service employee by the Department Head, as set forth in Step 2 above, the employee may appeal the decision to the North Carolina Office of Administrative Hearings (OAH) within thirty (30) calendar days of the receipt of the Department Head's decision. The findings of the OAH will be forwarded to the State Personnel Commission. The decision of the State Personnel Commission shall be advisory only and the Department Head shall have the final decision. Discrimination cases may be appealed directly to the OAH.



**Department Heads.** In the case of Department Heads or other employees where the County Manager or Appointing Authority has been significantly involved in determining disciplinary action, including dismissal, Rutherford County may wish to obtain a neutral outside party to either:

- a) provide mediation between the aggrieving Department Head and the County Manager or Appointing Authority in order to hold the Informal Resolution as set forth above; or
- b) review the appeal and make recommendations back to the County Manager or Appointing Authority concerning the appeal. Such parties may include human resource professionals, attorneys trained in mediation, mediators licensed and certified in North Carolina, or other parties as appropriate to the situation.

The County Manager's or Appointing Authority's decision regarding the disposition of the grievance shall be final. The County Manager will notify the Board of County Commissioners of any impending legal action.

### **Section 5. Role of the Human Resources Officer**

Throughout the grievance procedure, the roles of the Human Resources Officer shall be as follows:

- a) to advise parties (including employee, supervisors, and County Manager) of their rights and responsibilities under this policy, including interpreting the grievance and other policies for consistency of application;
- b) to be a clearinghouse for information and decisions in the matter including maintaining files of all grievance documents;
- c) to give notices to parties concerning any relevant timetables and deadlines in the process;
- d) to assist employees and supervisors in drafting statements;
- e) to facilitate the resolution of conflicts in the procedures or of the grievance at any step in the process; and
- f) to help locate mediation or other resources as needed.

The Human Resources Officer shall also determine whether or not additional time shall be allowed to either side in unusual circumstances if the parties cannot agree upon extensions when needed or indicated.

### **Section 6. Grievance and Adverse Action Appeal Procedure for Discrimination**

When an employee or applicant believes that any employment action discriminates illegally (i.e. is based on age, sex, race, color, national origin, religion, creed, political affiliation, or disability, veteran status, or genetic information) the employee has the right to appeal such action using the grievance procedure outlined in this policy. While such persons are encouraged to use the grievance procedure, they shall have the right to appeal directly to the Human Resource Officer and the County Manager or Appointing Authority.

Employment actions subject to appeal because of discrimination include promotion, training, classification, pay, disciplinary action, transfer, layoff, or termination of employment. An employee or applicant should appeal an alleged act of discrimination within thirty (30) calendar days of the alleged discriminatory action, but may appeal for up to six (6) months following the action.

## **ARTICLE XI. PERSONNEL RECORDS AND REPORTS**

### **Section 1. Public Information**

In compliance with GS 153A-98, the following information with respect to each Rutherford County employee is a matter of public record:

- 1) Name;
- 2) Age;
- 3) Date of original employment or appointment to the service;
- 4) The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that Rutherford County has the written contract or a record of the oral contract in its possession;
- 5) Current position title; current salary; date and amount of each increase or decrease in salary with Rutherford County;
- 8) Date of each promotion, demotion, transfer, suspension, separation, or other change in position classification with Rutherford County;
- 9) Date and general description of the reasons for each promotion with Rutherford County;
- 10) Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by Rutherford County. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of Rutherford County setting forth the specific acts or omissions that are the basis of the dismissal; and
- 11) The office to which the employee is currently assigned.

Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as Rutherford County may adopt. An individual examining a personnel record may copy the information. The cost of photocopying may be assessed to the individual who requests the copies.

For the purposes of this subsection, the term "salary" includes pay, benefits, incentives, bonuses, deferred and all other forms of compensation paid by Rutherford County.

A record will be maintained of all disclosures of personnel records, except for authorized personnel processing personnel actions or supervisors in the line of authority of the employee. Upon request, the records of disclosure will be made available to the employee to whom it pertains.

### **Section 2. Access to Confidential Records**

All information contained in a County employee's personnel file, other than the information mentioned above is confidential and shall be open to inspection only in the following instances:

- a) The employee or the employee's duly authorized agent may examine all portions of the employee's personnel file except letters of reference solicited prior to employment and information concerning a medical disability, mental or physical, that a prudent physician would not divulge to the patient. The review must take place in the presence of the Human Resource Officer or his or her designee.
- b) A licensed physician designated in writing by the employee may examine the employee's medical record.
- c) A Rutherford County employee having supervisory authority over the employee may examine all material in the employee's personnel file.
- d) By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file as may be ordered by the court.
- e) An official of an agency of the State or Federal Government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the County Manager to be necessary and essential to the pursuit of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee, or for the purpose of assisting in an investigation of the employee's tax liability.

However; the official having custody of the personnel records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.

- f) An employee may sign a written release to be placed in the employee's personnel file that permits the person with the custody of the file to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.
- g) The County Manager, with the concurrence of the Board of County Commissioners, may inform any person of the employment, non-employment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a County employee, and the reasons for that action. Before releasing that information, the County Manager shall determine in writing that the release is essential to maintaining the level and quality of County services. The written determination shall be retained in the County Manager's office, is a record available for public inspection, and shall become a part of the employee's personnel file.

### **Section 3. Personnel Actions**

The Human Resources Officer, with the approval of the County Manager, will prescribe necessary forms and reports for all personnel actions and will retain records necessary for the proper administration of the personnel system. The official personnel files are those which are maintained by the Human Resources Office. These files shall contain documents such as employment applications and related materials, records of personnel actions, documentation of employee warnings, disciplinary actions, performance evaluations, retirement and insurance records, letters of recommendation, and other personnel-related documents. Any documents not contained in these files or maintained as designated by the Human Resources Officer are not an official part of the personnel file.

#### **Section 4. Records of Former Employees**

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

#### **Section 5. Remedies of Employees Objecting to Material in File**

An employee who objects to material in the employee's file may place a statement in the file relating to the material considered to be inaccurate or misleading. In accordance with established grievance procedures, the employee may seek to have a record of upheld grievances relating to personnel records placed in the file and/or may seek removal of material in the file contingent upon approval of the North Carolina Department of Cultural Resources.

#### **Section 6. Penalties for Permitting Access to Confidential Records**

Section 153A-98 of the General Statutes provides that any public official or employee who knowingly and willfully permits any person to have access to any confidential information contained in an employee personnel file, except as expressly authorized by the designated custodian, is guilty of a misdemeanor and upon conviction shall be fined in an amount consistent with the General Statutes.

#### **Section 7. Examining and/or Copying Confidential Material without Authorization**

Section 153A-98 of the General Statutes of North Carolina provides that any person, not specifically authorized to have access to a personnel file designated as confidential, who shall knowingly and willfully examine in its official filing place, remove or copy any portion of a confidential personnel file shall be guilty of a misdemeanor and upon conviction shall be fined consistent with the General Statutes.

#### **Section 8. Destruction of Records Regulated**

No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with GS 121.5 (b), without the consent of the State Department of Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or whoever, alters, defaces, mutilates or destroys it will be guilty of a misdemeanor and upon conviction will be fined in an amount provided in Chapter 132.3 of the General Statutes.

### **ARTICLE XII. IMPLEMENTATION OF POLICIES**

#### **Section 1. Conflicting Policies Repealed**

All policies, ordinances, or resolutions that conflict with the provisions of these policies are hereby repealed.

## **Section 2. Separability**

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

## **Section 3. Effective Date**

These policies shall become effective on a date approved by the Board of County Commissioners for Rutherford County Government.

## **Section 4. Amendments**

This policy may be amended by action of the Board of Commissioners and by resolution appropriately approved. Notice of any suggested amendment to the policy; or any portion thereof, shall be provided to employees and opportunities for employee comment and reaction shall be made available prior to the amendments going to the Commissioners for action. Proposed amendments should be posted on bulletin boards in all employee work locations and/or in employee newsletters. Any revisions or amendments adopted in conformance with this procedure shall become effective as of the date of such adoption.

