



# NEW HANOVER COUNTY

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### ARTICLE 1: ORGANIZATION OF PERSONNEL SYSTEM

#### 1.0 Purpose and Applicability

New Hanover County government exists to provide many varied services to the citizens of New Hanover County. Central to the success of services delivery and, therefore, a major management responsibility, is the organization and administration of a personnel system for one of the County's most valuable resources—its employees. The consistent administration of personnel functions is conditioned by the proper application of personnel policies. These policies will establish a system which will recruit, select, develop and maintain an effective and responsible work force. This policy is established under the authority of Chapter 153A, Article 5 of the North Carolina General Statutes. This manual contains statements of personnel policies and procedures to be followed by all managers, department heads and other employees, except as noted in specific articles and sections herein.

#### 1.1 Policies Not Employment Contract, Not All-Inclusive; Nature of Employment

The policies, information and guidelines set forth are not intended to be comprehensive or to address all possible applications of, or exceptions to, the general policies and procedures described. Likewise, they are not intended to create a contract, nor do they confer any contractual right, express or implied, to employment with New Hanover County or guarantee any fixed terms and conditions of employment. Employees of New Hanover County are at-will employees. They are free to resign at any time, with or without notice or cause. Similarly, the County may terminate the employment relationship at any time, with or without notice or cause, so long as there is no violation of applicable federal or state law.

The personnel policies, information and guidelines may be amended or canceled at any time, with proper approvals as set forth herein. While it is the intent of the County to promptly notify all affected employees of changes, unfortunately circumstances do not allow a guarantee that prior notice can be given and the policy in effect at the time will simply have to govern.

#### 1.2 Position Status Definitions

The following defines various statuses of positions with New Hanover County:

- a. Regular: A budgeted position where duties and responsibilities are required to be attended on a time limited basis or a continuous and probable annually recurring basis, requiring part-time for full-time employment of an individual at a minimum of 1,040 hours in a consecutive 12-month period. Employees occupying such positions are entitled to all employment benefits offered by the County, in accordance with eligibility guidelines.



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- b. Casual Part-Time: A position where duties and responsibilities may be required on a recurring or intermittent basis and the individual assigned to such a position shall work under 1,000 hours during any consecutive 12-month period. Employees occupying such positions are not eligible for benefits offered by the County.
- c. Temporary: A position funded for a specified period of time to coincide with projects or programs of limited duration, limited funding, or other time constraints. Individuals assigned to such positions shall work less than 1,000 hours in any consecutive 12-month period. Employees assigned to such positions are not eligible for benefits offered by the County.

### 1.3 Responsibility

Responsibility for the administration of these policies and procedures is designated as follows:

#### 1.3.1 Responsibility - Board of County Commissioners

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

#### 1.3.2 Responsibility - County Manager

The County Manager will be responsible to the Board of County Commissioners for the administration and technical direction of the personnel program. The County Manager shall have the final authority in decisions in employment and disciplinary reduction in pay, suspension or dismissal of all County officers and employees in accordance with the policies and procedures set forth herein, except for those who are elected by the people or whose appointment is otherwise provided for by law.

The County Manager will recommend to the Board of County Commissioners consideration of rules and revisions to the personnel system and policies and approval of revisions to the position classification plan or pay plan.

#### 1.3.3 Responsibility - Chief Human Resources Officer

The Chief Human Resources Officer will be responsible to the County Manager for the regular maintenance of the personnel program. The Chief Human Resources Officer will, among other responsibilities:

- a. Establish and maintain human resources information systems and personnel records for all County employees, in accordance with applicable federal, state and local laws and regulations and the policies and procedures set forth herein;
- b. 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;



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- c. Develop and coordinate training and educational programs for County employees;
- d. Stay abreast of personnel and employee benefit trends and legal developments; investigate periodically the operation and effect of the provisions of this policy; and make recommendations to the County Manager for appropriate personnel policy and employee benefit revisions;
- e. Maintain exempt and non-exempt Fair Labor Standards Act (FLSA) classifications on all positions to ensure compensation practices are compliant with the FLSA; and
- f. Perform such other duties as may be assigned by the County Manager not inconsistent with this policy.

### **1.3.4 Responsibility - Managers and Supervisors**

It is the responsibility of each and every covered member of management to administer these policies in a consistent and impartial manner.

### **1.3.5 Responsibility - Employees**

All covered employees are expected to adhere to the standards of conduct and job performance and other conditions of employment specified in these policies and procedures.



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### ARTICLE 2: THE POSITION CLASSIFICATION PLAN

#### 2.0 Purpose and Applicability

The purpose of the County position classification plan is to provide the structure through which the County may recruit and retain qualified employees and the needed foundation for the compensation plan. This plan is designed to facilitate adequate classification and compensation treatment internally and put the County on a competitive basis with other governmental and private organizations, consistent with the availability of funds and the County's allocation of resources. All authorized regular (benefits-eligible) positions are part of the position classification plan.

#### 2.1 Policy

The position classification plan shall provide a complete inventory of all authorized regular (benefits-eligible) positions in the County service and an accurate description and specification for each class of employment. In order to insure its continuing value as a personnel management tool, the position 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 positions.

The 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 responsibilities, 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 classification title of each position in the classified service.

The classification plan is to be used:

- a. As a guide in recruiting and examining applicants for employment;
- b. In developing work objectives and competencies in the County Performance Management Process (PMP);
- c. In determining lines of promotion and in developing employee training programs;
- d. In determining salary to be paid for various types of work;
- e. In determining personnel service items in departmental budgets; and
- f. In providing uniform job terminology.

#### 2.2 Procedures -Classification and Reclassification

Requests for position classification and reclassification must be made by the Department Head to the Chief Human Resources Officer. The request should provide a justification for the requested



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action and be supported by a completed Job Assessment Tool (JAT), which is a tool used by the Human Resources Department to analyze job functions and evaluate the position.

When this process involves new budgeted positions, it is called classification. When it involves existing classified positions which have substantially changed since initial classification, it is called reclassification.

The Human Resources Department will review the JAT and perform job analysis and job evaluation using the position evaluation methodology used by the County. The staff member assigned the classification or reclassification review may conduct desk audits or interview department personnel as part of the analysis. The staff member will make a report and recommendation to the Chief Human Resources Officer who will, in turn, make a recommendation to the County Manager (or designee). The County Manager (or designee) has the final approval authority on classifications and reclassifications.

### **2.3 Reclassified to Higher, Lower, or Same Pay Grade**

If an occupied position is reclassified to a lower pay grade due to reorganization or some other reason not related to the employee's performance, the pay rate may be reduced to a lower pay rate and one that is within the pay range of the new pay grade. If the employee's pay rate before the reclassification is higher than the maximum pay rate of the new pay grade, the employee should expect the pay to be reduced to a pay rate within the new pay range. The amount of reduction would be determined by the supervisor and the department head based on consideration of several factors such as internal equity and the employee's qualifications compared to the qualifications of the job, and it must be approved by the Chief Human Resources Officer.

If a position is reclassified to a higher pay grade, the pay rate shall be adjusted to the minimum pay rate of the new pay grade. If a position is reclassified to the same pay grade, there shall be no pay rate adjustment as a result of the reclassification. In unusual circumstances, with approval by the Chief Human Resources Officer, the pay rate may be established up to the midpoint rate of the new pay grade or, with approval by the County Manager (or designee), the pay rate may be set at a higher rate within the new pay grade.

### **2.4 Responsibility**

Responsibility for maintaining the position classification plan is as follows:

#### **2.4.1 Responsibility - Board of County Commissioners**

A listing of established classifications for budgeted positions and corresponding pay grade assignments shall be adopted by the Board of County Commissioners as the County's position classification and pay plans for the stipulated fiscal year.



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Incremental positions shall be established only with the approval of the Board of County Commissioners after review by the Chief Human Resources Officer and a recommendation by the County Manager to either (1) allocate the additional position to the appropriate position classification within the existing position classification plan, or (2) recommend that the Board of County Commissioners amend the position classification plan to establish a new position classification to which the additional position may be allocated.

### **2.4.2 Responsibility - County Manager**

The County Manager shall allocate each existing position covered by the position classification plan to its appropriate classification in the position classification plan. The County Manager shall be responsible for the overall administration and maintenance of the position classification plan.

When the Chief Human Resources Officer finds that a substantial change has occurred in the nature or level of duties and responsibilities of an existing position, he or she will make a recommendation regarding that position to the County Manager. The County Manager may: (1) direct that the existing classification specification be revised, or (2) reallocate the position to the appropriate classification within that existing classification plan, or (3) amend the position classification plan to establish a new classification to which the position may be allocated, or (4) recommend that duties and responsibilities return to the original assignment.

### **2.4.3 Responsibility - Chief Human Resources Officer**

The Chief Human Resources Officer is responsible for the daily administration and maintenance of the position classification and compensation plans. The Chief Human Resources Officer shall conduct or direct comparative studies of all factors affecting the level of salary ranges and recommend to the County Manager a pay plan for the County Manager's consideration in the preparation of the recommended annual budget.

In administering the position classification and pay plans, the Chief Human Resources Officer uses an established position evaluation method adopted by Board of County Commissioners to classify and evaluate positions and to create the classification specification document.

### **2.4.4 Responsibility - Department Heads**

The department heads shall be responsible for bringing to the attention of the County Manager or Chief Human Resources Officer (1) the need for new positions, and (2) material changes in the nature of duties, responsibilities, working conditions, or other factors affecting the classifications of any existing positions.





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### ARTICLE 3: THE PAY PLAN

#### 3.0 Purpose and Applicability

The pay plan provides structure through which employee pay is determined in compliance with federal, state and local laws and in accordance with the principles of position evaluation, a fair living wage, and pay for performance. This policy applies to all budgeted, regular (benefits-eligible) positions, with some exceptions as noted herein.

#### 3.1 Policy

The County's pay plan shall compensate employees for work of varying responsibility, establish methods of rewarding employees for meritorious service, facilitate adjustments to changing economic and employment conditions requiring changes in pay levels and inter-relationships, and establish pay rates which compare favorably with those of public and private organizations competing for employee skills similar to those used by the County, consistent with the availability of funds and the County's allocation of resources.

#### 3.2 Pay Plan Structure

The pay plan shall consist of one or more salary schedules. Each classified and evaluated position has a pay grade with a range including a minimum rate of pay, a market (midpoint) rate of pay, and a maximum rate of pay.

#### 3.3 Merit Pay

The pay ranges are intended to furnish administrative flexibility in recognizing individual performance among employees holding positions in the same classification by rewarding employees for meritorious service. Advancement through the range will be accomplished under the guidelines established in the County's Performance Management Process (PMP). The following general provisions will govern the granting of those within-the-range increments:

- a. Every regular (benefits-eligible) employee should have a work plan at the beginning of the performance review period which sets forth performance expectations for the upcoming year and the measurements that will be used to evaluate performance at the end of the performance review period.
- b. Every regular (benefits-eligible) employee who has successfully completed an introductory period shall have a minimum of one full performance review during the fiscal year, whether it results in a pay increase or not.
- c. Employees whose overall performance *does not meet expectations* are not eligible to receive a merit award.
- d. Employees whose overall performance *meets expectations* may receive no merit award or only a marginal one.
- e. Employees whose overall performance *exceeds expectations* may receive a merit award.



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- f. Employees in the introductory period of employment shall have a performance review to determine eligibility to continue employment at the end of the introductory period. Merit awards for such employees will be determined in accordance with merit eligibility guidelines established for the fiscal year.

Merit awards are subject to the availability of funds and to any rules established for a fiscal year. Merit may be awarded as an increase to base pay, a lump-sum bonus, or a combination of the two, as determined by the rules established for a fiscal year.

### **3.4 Merit Pay - EXCEL**

A performance-based merit program, it is an enhancement to the pay plan which rewards employees for meritorious service who would otherwise be ineligible for a merit award because of being at a pay rate on the high end of the same range. Eligible employees may receive, as a regular merit increase, a per cent increase that would take them to the maximum rate in combination with a one-time lump-sum bonus for the balance of the merit award. For example, if an employee is two per cent (2%) below the maximum rate but the department head wants to award a four per cent (4%) merit award, the employee would receive a two per cent (2%) award to reach the maximum rate and a two per cent (2%) one-time bonus to make up the total merit award. If currently at the maximum rate, the employee would receive the entire amount of increase as a lump-sum award, with no change to the base pay rate. This increase is subject to the availability of merit funds, just as are regular merit awards.

### **3.5 Merit Pay - Bonus**

Merit bonuses may be used as an alternative to, or in some combination with, regular merit increases. They may be given in recognition of a single accomplishment or for continued meritorious performance. Merit bonuses are given as a lump sum award, with no change to the base pay rate. This bonus is subject to the availability of merit funds, just as are regular merit awards.

### **3.6 Merit Pay - Incentive Plan**

The County Manager may provide alternative compensation for employees, outside of the parameters of the salary plan, through the establishment of an incentive plan. The incentive plan shall consist of recognition/reward programs for employees who perform particularly meritorious service for the County.

### **3.7 Establishing Pay Rates**

All employees covered by the position classification and pay plans, shall be paid at a base pay rate within the salary range established for their respective job classifications, except for employees in a "trainee" status or employees whose performance has resulted in a pay rate assignment below the minimum rate of the pay grade for their classification.



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### 3.7.1 Establishing Pay Rates - Pay Zones and Differentials

There may be pay differentials to distinguish some positions from others in the same broad position classification, as follows:

- a. **Pay Zones:** Pay zones may be established to distinguish levels within the same broad position classification when there may be varying responsibilities or required qualifications. The Chief Human Resources Officer establishes pay zones. A pay zone structure overlays the range structure, and may be designated as a separate pay grade/range.
- b. **Differential Pay:** Department heads may use differential pay to compensate for certain differences among positions within the same broad classification which are not substantial enough to distinguish levels or classifications, e.g., shift assignment, special skills or additional responsibilities. Differential pay can be short-term or long-term. Differential pay does not change the base pay rate assignment; it is treated as separate pay, and it shall be taken away if the situation changes so that the difference no longer exists. Differential pay is not a performance-based award, and shall not be a substitute for merit awards. Department heads shall use this pay with discretion, and must present proposals and get prior approval from the Chief Human Resources Officer.

### 3.7.2 Establishing Pay Rates - Trainees

Applicants or employees who do not meet the established minimum requirements of the position to which they are appointed should be appointed at a pay rate lower than the minimum rate of the assigned pay grade. Normally, the trainee pay rate is the minimum rate of the pay grade below the pay grade established for the job (or a similarly lower rate if no lower pay grade exists), unless placement at an even lower rate is appropriate and approved by the Chief Human Resources Officer.

An employee will remain at a trainee rate until the department head certifies that the trainee is qualified to assume full responsibilities of the position and the Chief Human Resources Officer or County Manager approves the certification.

Trainees are eligible to receive salary adjustments or merit increases, subject to the applicable sections of this Article, except that such increases cannot result in placement at a pay rate equal to or above the minimum rate of the pay range established for the job. When trainees have been approved for removal from trainee status, they will receive a salary adjustment to the minimum rate of the pay range established for the job.

### 3.7.3 Establishing Pay Rates - Hiring, Promotion, Reclassification, or Transfer



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Applicants hired or employees reclassified, promoted, or transferred to another classification normally will be placed on the minimum rate of the new pay range, except in those cases where the employee must enter as a trainee or where unusual circumstances appear to warrant pay at a higher rate wherein the Chief Human Resources Officer shall have the authority to approve appointments made above the minimum rate of the range up to the midpoint rate and the County Manager must approve appointments above the midpoint rate.

Employees reclassified or transferred because of unsatisfactory performance or for disciplinary reasons shall not receive a pay increase; rather, they should expect to receive a pay decrease.

### **3.7.4 Establishing Pay Rates - Temporary Reassignment to Another Classification**

Sometimes, it is necessary to temporarily reassign an employee to duties and responsibilities of another classification or to a position in another classification to address a particular problem or a personnel shortage (e.g., the extended absence of another employee or a supervisor). Such reassignments shall occur only through written notification, recommended by the department head, and approved by the Chief Human Resources Officer. The duration of such reassignments must be no less than thirty (30) days and no more than twelve (12) months, unless the Chief Human Resources Officer determines an extension beyond the twelve (12) month duration should be granted for a period not to exceed an additional twelve (12) months. Employees reassigned to a lower classification level should not be penalized in salary by placement in the corresponding lower pay range. They would continue in the current pay range, enjoying all benefits and increases as though no transfer had taken place. Employees reassigned to a higher classification level should be granted a five per cent (5%) increase or paid at the minimum rate of the higher classification pay range, whichever is greater, while serving in the higher classification. When the temporary assignment ends and the employee returns to the lower classification, the rate of pay should equal the rate the employee was paid prior to the temporary reassignment, plus any pay increase granted, or which would have been granted, during the period of the temporary assignment. Should this result in a salary which is at, or exceeds, the maximum rate of the pay range for the lower classification, the rate would be capped at that maximum rate and the employee would continue to be eligible for merit awards through the EXCEL merit program.

### **3.7.5 Establishing Pay Rates - Involuntary and Voluntary Demotions**

Employees demoted for disciplinary or performance reasons should expect to have their salary reduced. The amount of reduction would be determined by the supervisor and the department head and approved by the Chief Human Resources Officer, and would be contingent on the severity of the offense or deficiency.



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Employees involuntarily demoted for reasons other than discipline or performance or who request a voluntary demotion should also expect to have their salary reduced to a salary within the pay range of the new position. The amount of reduction would be determined by the supervisor and the department head based on consideration of several factors such as internal equity and the employee's qualifications compared to the qualifications of the job, and it must be approved by the Chief Human Resources Officer.

### **3.7.6 Establishing Pay Rates - Part-time Service**

The pay plan established by this policy is for full-time service. An employee appointed to a regular (benefits-eligible) for less than full-time service will be paid at a base rate within the pay range established for full-time positions within the classification. However, the annual salary will be affected by the number of hours budgeted/worked in the year.

### **3.7.7 Establishing Pay Rates - Casual Part-Time and Temporary Employees**

Casual part-time and temporary positions are not budgeted regular (benefits-eligible) positions and, therefore, are not classified and evaluated in the same way. Employees in casual part-time and temporary positions shall be classified and paid at a rate in the pay grade established for regular (benefits-eligible) positions in the classification, in consultation with the Chief Human Resources Officer. In the absence of corresponding regular (benefits-eligible) positions, the Chief Human Resources Officer will determine the job title and pay rate.

## **3.8 Salary Adjustments – Regular (benefits-eligible) Employees)**

Maintenance of the pay plan may include annual surveys of labor market statistics and comparative salary data. As a result, appropriate range changes or in-range adjustments may be made to the pay plan. These adjustments are called market adjustments. Individual employees' rates may or may not change, depending upon their pay rates before the adjustment, the extent of the adjustment, their employment status and their performance rating at the time of the adjustment.

Salary adjustments may be tied to changes in the cost-of-living-index, typically to the consumer price index (CPI). As a result, regular (benefits-eligible) employees may be eligible to receive an increase to their base pay rate as a cost of living adjustment (COLA). Salary Adjustment Eligibility Criteria:

- a. An employee's department head must certify that the employee's meets the eligibility guidelines established for each type of salary adjustment.
- b. Regular (benefits-eligible) employees in an active work status who meet the established eligibility guidelines will receive the salary adjustment.
- c. Regular (benefits-eligible) employees who do not meet the established eligibility guidelines will not be eligible for the adjustment at that time or at a later date in the fiscal year.



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- d. Employees in a leave-without-pay status at the time of the adjustment are not eligible for the adjustment, but may become eligible when they return to work if they are certified as having met the established eligibility guidelines.

If, in a pay plan revision, a classification is assigned to a different pay grade, employees in that classification will be placed in the new grade at their current rate. If the adjustment results in an employee being at a rate lower than the minimum rate of the new pay grade and the employee's overall performance is rated as *meeting expectations*, the employee will be placed at the minimum rate; if the employee's overall performance is rated *below expectations*, the employee will be placed in a lower pay grade or at an exception pay rate to maintain the current rate of pay. If the adjustment results in an employee being at a rate above the maximum rate of the new pay grade, the employee's pay will be frozen at that rate until that rate is within the pay grade to which that position is assigned.

In an in-range adjustment, the salary structure (minimum, midpoint and maximum rates) may not change, but rather employees may advance by a prescribed per cent increase within the range of their pay grade.

### 3.8.1 Salary Adjustments – Casual Part-time Employees

Casual part-time positions are not budgeted, regular (benefits-eligible) positions included in the classification plan. Employees in such positions may be eligible for salary adjustments during times when such adjustments are approved for regular (benefits-eligible) employees. The amount of such increases for this group of employees will be subject to the availability of funds contained in the budget and in accordance with eligibility guidelines established at the time of the adjustment.

## 3.9 Overtime Pay

The Human Resources Department determines whether positions are exempt or non-exempt from overtime under the Fair Labor Standards Act (FLSA) guidelines for FLSA classification of positions. Employees classified as non-exempt from the FLSA shall be paid overtime at the rate of time-and-one-half for all hours worked in excess of forty (40) hours in the County's 7-day work week (Tuesday-Monday). As exempted in section 207(k) of the FLSA, non-exempt sworn law enforcement personnel shall be paid overtime for all hours worked in excess of 171 hours in a 28-day work period and non-exempt firefighters shall be paid overtime for all hours in excess of 212 hours in a 28-day work period.

### 3.9.1 Overtime Pay and Other Paid Leave

Time spent in personal, sick, holiday, administrative or other paid leave is not counted as time worked in computing hours towards the threshold for overtime pay.

### 3.9.2 Overtime Liability: Supervisor's Responsibility to Minimize



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Supervisors shall arrange work schedules of employees so that overtime work is not necessary. However, when it is unavoidable, supervisors should exhaust all alternatives to direct overtime pay, as described herein:

- a. Time off during the same work week—Supervisors may require employees to take time off without pay on an hour-for-hour basis during the same work week in which the daily overtime is worked to keep them from working more than 40 hours in that work week.
- b. Time off in the second work week of the pay period—If employees work over 40 hours in the first work week of the pay period, overtime must be paid for those hours in excess of 40. However, supervisors may offset the overtime salary cost by requiring them to take time off without pay at the time-and-one-half rate in the second workweek of the pay period so that the employee's pay check will reflect the normal pay for a pay period.

### **3.10 "Comp Time"**

The County does not have a "comp time" policy, i.e., a policy under which non-exempt employees may bank compensable time off in lieu of being paid overtime.

### **3.11 Unauthorized Work**

Hours worked by an employee without the supervisor's permission or contrary to instructions may or may not be considered as hours worked, and the supervisor should consult with the Human Resources Department in such a situation. Unrecorded hours worked during a work week by an employee at the job site or at home must be counted as hours worked if the employer knows or has reason to know of such practice. Supervisors are responsible for monitoring employees' work habits so that no unauthorized work is being performed. Performing unauthorized work can be a basis for disciplinary action.

### **3.12 Compensation Policies Applicable to the FLSA**

All compensation policies and procedures, including compensation for travel time, volunteer work, training time, and workshops, meetings or seminars will be administered according to the requirements of the FLSA.

### **3.13 Exempt Employee Pay Deductions**

In accordance with the FLSA Special Salary Test Rules for the Public Sector, exempt employees shall be placed on leave without pay for full-day or partial-day absences for personal reasons or because of illness or injury when accrued leave is not used by the employee because:

- a. Permission for its use has not been sought or has been sought and denied;
- b. Accrued leave has been exhausted; or
- c. The employee chooses to use leave without pay.



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Deductions from pay for absences due to a budget-required furlough or to a disciplinary suspension for major safety or performance issues will not affect the employee's exempt status, except for the work week in which the furlough or suspension occurs.

Exempt employees who believe their pay has been improperly deducted should contact their immediate supervisor or department head or any Human Resources Department staff member immediately to request an investigation. Reports of improper deductions will be promptly investigated. If it is determined that an improper deduction has occurred, a reimbursement will be promptly made to the complainant and any other adversely impacted employee discovered in the course of the investigation.

### **3.14 On-Call Pay**

New Hanover County provides compensation for non-exempt employees who are required to be available for after-hours emergency on-call coverage. On-call rotation schedules must be approved in advance by the Department Head in consultation with the Chief Human Resources Officer. Compensation for time spent while on-call and for time spent when actually called back to work shall be determined in accordance with the procedures and rules outlined below:

- Employees approved for on-call status will be paid for non-work on-call time using the formula "Actual non-work on-call hours x .0625 x employee's hourly rate."
- All time responding to a call, including time spent on the telephone and in portal-to-portal travel shall be recorded as regular (or overtime, if appropriate) hours rather than as non-work on-call hours.

On-call duty which substantially restricts an employee's movements should be reviewed by the Chief Human Resources Officer to determine that the employee is appropriately paid. On-call pay is not required by the law, but when it is extremely restrictive in nature it can be considered compensable work time under the FLSA.

### **3.15 Call-Back Pay**

Non-exempt employees not approved for on-call status who are called back to work outside of normal working hours, as needed, will be paid their hourly rate of pay for the time work is performed. The time spent on the telephone and in travel from home to the work site and back is compensable work time, and shall be counted in computing hours towards the threshold of overtime pay.

### **3.16 Emergency Pay**

Employees who perform emergency duty may be required to record time worked as special emergency pay. The use of recording time as special emergency pay and guidelines regarding its use will be determined at the time an emergency that requires employees perform emergency duty has been declared.





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### 3.16.1 Emergency Pay - Non-Exempt Employees

Non-exempt employees required to report to work or remain at work in response to the emergency shall be compensated at their regular rate of pay for all hours worked. Any overtime that may result will be paid in accordance with the “overtime pay” policy. Additionally, non-exempt employees required to work or remain at work, in response to the emergency, and the work is outside of their regular work schedule or during a period of administrative leave for which they would otherwise be eligible because their office is closed, will be granted an amount of paid leave that is equal to such hours worked. The leave must be used within 90 days from when it is granted or by the end of the fiscal year, whichever is greater. The leave will not be paid out upon termination or change to a status that makes the employee ineligible for paid leave.

### 3.16.2 Emergency Pay - Exempt Employees

FLSA exempt employees required to work during an emergency are not eligible for emergency pay. They will be paid according to their regular base salary. Exempt employees required to work or remain at work outside of their regular work schedule or during a period of administrative leave when their office was otherwise closed, in response to the emergency, will be granted an amount of paid leave that is equal to such hours worked. The leave must be used within 90 days from when it is granted or by the end of the fiscal year, whichever is greater.

### 3.16.3 Emergency Pay - Travel Time

Non-exempt employees reporting for emergency duty may be eligible for compensation for travel time and for mileage reimbursement for travel from home to the emergency site and back home. If eligible, this time shall be compensated as emergency pay, using the emergency pay code on the time sheet. Mileage reimbursement shall be at the established county rate.

### 3.16.4 Emergency Pay - Sleep Time

A non-exempt employee who is required to be on duty for less than 24 hours is considered to be working even if allowed to sleep during on-duty times when he or she is not busy. The sleep time is considered to be hours worked even if the employee is provided with sleeping facilities on the employer’s premises. If an employee is required to be on duty for 24 hours or more, sleep time may be excluded if all of the following conditions are met:

- a. The employer and employee have made a written or implied agreement to exclude a bona fide regularly scheduled sleep period of not more than 8 hours or less than 5 hours.
- b. The employer provides the employee with adequate sleeping facilities.
- c. The employee can usually enjoy an uninterrupted night’s sleep.



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Sleep time may traverse two (2) days. Show actual sleep time on each day.

### **3.16.5 Emergency Pay - Duty in Other Locales**

When a non-exempt employee volunteers (with prior approval by the supervisor and department head) or is assigned to perform emergency-related work in another jurisdiction, such time shall be compensated as emergency pay in accordance with the provisions in this Article, using the emergency pay code on the time sheet. Travel time between home and work and back, as well as travel from work site to work site shall be compensable.

### **3.17 Payroll Deductions**

There are three (3) classes of payroll deductions:

- a. Statutory deductions, mandatory for all County employees: FICA, federal and state income tax withholding, or retirement system (enrolled benefits-eligible employees only)
- b. Voluntary deductions authorized in writing by the employee for: Elective insurance, medical and dental insurance; statement savings program; United Way Fund; Deferred Compensation; Credit Union; 401(k); computer loan repayment; Flexible Spending Accounts
- c. Special deductions, which may be statutory or court-ordered or a part of some legal agreement or settlement, including but not limited to: Garnishments/levies; overpayment of wages; under-deductions of statutory deductions; court orders.



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### ARTICLE 4: EMPLOYMENT

#### 4.0 Purpose and Applicability

In establishing and following employment policies, the County strives to attract, select and employ the most qualified and best suited candidates for position vacancies, all the while fostering and promoting equal employment opportunity. These policies apply to all applicants and employees applying for the position.

#### 4.1 Policy

It is the policy of the County to employ according to merit and fitness. To that end, it will be the practice of the County to use all available means to attract qualified candidates for employment, and to make such investigations and examinations as are deemed appropriate to fairly assess the aptitude, education and experience, knowledge and skills, abilities, character and other standards required for positions in the service of the County.

#### 4.2 Equal Employment Opportunity Policy

New Hanover County is committed to maintaining a work environment that is free of discrimination. In accordance with employment discrimination law, the County prohibits any supervisor, employee, agent or customer of the County from discriminating against any individual on the basis of race, sex, color, religion, national origin, age, pregnancy or disability. Personnel decisions (including decisions affecting hiring, promotion, work assignments, disciplinary actions, receipt of benefits, or participation in organization-sponsored programs) shall not be based on an individual's protected status. Any applicant for employment or any employee who believes a personnel decision was based on their protected status may contact Human Resources.

All complaints of unlawful workplace harassment, including sexual harassment, will be investigated promptly and where necessary, immediate appropriate action will be taken to stop and remedy any such conduct. Any supervisor, agent or employee found in violation of this policy is subject to disciplinary action, including dismissal.

#### 4.3 Recruitment Procedures

As a position becomes vacant, the hiring department will submit a requisition to fill the vacancy to the Human Resources Department for review and approval by the Chief Human Resources Officer. The Chief Human Resources Officer may approve filling casual part-time or temporary position vacancies, after determining the hiring department has sufficient funds in its budget to support the position. Upon approval to fill position vacancies, the Human Resources Department will publicize employment opportunities by posting position vacancies on the County website and through other recruitment sources to reach as wide a geographic area as is necessary to attract a good pool of well-qualified applicants from both the general population of potential applicants and protected group minority applicants.



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A hiring department may request that a recruitment opportunity be open only to departmental employees (intra-departmental recruitment announcement) or to County employees (interdepartmental recruitment announcement). If approved by the Chief Human Resources Officer, the position vacancy will be advertised in the appropriate department(s) and those County employees who may apply must submit a completed County application form in a timely manner. Applications will be processed by the Human Resources Department and appointments will be made in the same manner as outlined in the above sections.

Recruitment announcements will include a description of the available position(s), the minimum qualifications required and preferred, salary information, and application instructions. Also, they will contain assurances of equal employment opportunity with the County.

#### **4.4 Employment Applications**

All persons expressing interest in employment with the County will be given the opportunity to file an application for any position for which applications are being advertised and received at that time. An application must be filed for each advertised position vacancy for which an individual wants to be considered. The County does not maintain general applications or resumes for use with future advertised position vacancies, with the exception of specified positions for which the County continuously advertises and accepts applications.

#### **4.5 Employment Selection Procedures**

Human Resources Department staff will receive applications for advertised vacancies, process the applications, and screen the applications for qualifications. They may conduct preliminary screening interviews with selected applicants. They may also make appropriate records and other suitability checks. They will select and refer a manageable number of the most suitably qualified applicants to the hiring department for interview and further selection activities.

The hiring department will conduct interviews and reference checks and consult with Human Resources prior to making a job offer to the selected candidate(s). It will update the applicant tracking system indicating the reasons for selection or rejection of each of the candidates. The hiring department will make the offer of employment contingent upon a successful pre-employment drug screening.

#### **4.6 Introductory Period of Employment**

An employee appointed to a full-time or part-time regular (benefits-eligible) position will serve an introductory period of no less than six (6) months and no more than twelve (12) months. During the introductory period, an employee may be dismissed at any time the hiring authority feels the employee is not satisfactorily performing the assigned duties. Before completion of an employee's introductory period, the employee's supervisor or department head will evaluate the employee's performance and follow the following procedures:



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- a. Discuss the employee's performance evaluation and progress with the employee;
- b. Determine and document whether the employee's performance meets expectations held for an employee at that point in employment;
- c. Complete a personnel action to retain the employee in the position and move the employee from the introductory period status; extend the introductory period for a designated time, documenting expectations for successful completion; or demote, transfer or dismiss the employee.

### **4.7 Casual Part-time or Temporary to Regular Status**

No service credit shall be given for time and service while in a casual part-time or temporary position; nor shall service credit be given for such time upon transferring into a regular (benefits-eligible) position.



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## PERSONNEL POLICIES & PROCEDURES

### ARTICLE 5: SEPARATION, REEMPLOYMENT

#### 5.0 Purpose and Applicability

These policies set forth conditions under which employees separate from the County and former employees return to County service. They are applicable to all County employees, except as noted otherwise herein.

#### 5.1 Types of Separation

Separations of employees from positions in the service of the County will be designated as one of the following: resignation, reduction in force, disability, retirement, dismissal or death.

##### 5.1.1 Resignation

Employees may voluntarily resign from employment with the County at any time. A minimum of two (2) weeks' notice is expected of all resigning personnel. Such notice should be given to the department head (or in the case of department heads, the County Manager).

If an employee does not report to work or maintain contact with his or her supervisor for three (3) days or at the end of an approved leave of absence, it will be considered voluntary resignation.

If the department head determines that it would be in the department's best interest for the employee not to serve out a notice, he or she may accept the resignation and make it effective before the end of the full notice given.

##### 5.1.2 Use of Leave After Notice of Resignation

The last day actually worked is the effective date of the separation. Employees may not use any type of paid leave to extend the effective date of separation.

Supervisors are responsible for ensuring that sick leave privileges are not abused during the period the employee is serving out the notice. In order to determine whether to authorize use of sick leave, supervisors may require a doctor's certification that an employee was sick and was treated.

##### 5.1.3 Reduction-in-Force (RIF)

For reasons of curtailment of work or lack of funds, the County Manager (or in the case of the Sheriff's Office and Register of Deeds Office, the elected officials of those departments) may separate employees. In determining the employees to be retained, consideration shall be given to the quality of each employee's performance as



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documented by current performance evaluations, organizational needs, seniority or a combination thereof. No regular (benefits-eligible) employee shall be separated while there are employees in a casual part-time, temporary, emergency, intermittent, trainee or introductory period status serving in the same class in the department unless the regular (benefits-eligible) employee is not willing to transfer to the position held by the casual part-time, temporary, emergency, intermittent, trainee or employee in the introductory period.

Established pay zones within broad job classifications may be considered as separate job classifications when determining employees to be retained during a RIF. In each RIF situation department heads must be consistent, either by treating each pay zone within a broad job classification as a separate job classification, or by treating each pay zone within a broad job classification as one job classification.

### **5.1.4 Disability**

An employee may be separated for disability when the employee cannot perform the essential functions of his/her job because of physical or mental impairment. Action may be initiated by the employee or the County, but in all cases it must be supported by medical evidence, as certified by a licensed physician. The County may require an examination at its expense and performed by a physician of its choice. Before an employee is separated for disability, a reasonable attempt shall be made to continue the employee's service by making reasonable accommodations, including transfer of the employee to a vacant position for which the employee is qualified.

An employee may be eligible for disability benefits, including disability retirement in some cases. He or she should contact a Human Resources Department staff member to ascertain eligibility.

### **5.1.5 Dismissal**

The County may terminate the employment of an employee at any time, with or without cause, so long as the action is not the result of unlawful discrimination or the violation of some other employment law.

With a casual part-time employee, temporary employee or a regular (benefits-eligible) employee in the introductory period, the dismissal can be immediate and done without engaging in a formal process. However, the department head or supervisor should tell the employee the true reason(s) for the action. If the affected employee is in a regular (benefits-eligible) position and has completed the introductory period, the supervisor must give the employee the due process of a pre-dismissal hearing before making a decision. Until such hearing and decision, the department head may allow the employee to work or may place the employee on administrative suspension with or without pay.



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Regular (benefits-eligible) employees who have satisfactorily completed the introductory period of employment have the right to appeal a dismissal action, in accordance with the appeal procedures contained in Article 9 of the personnel policy. Casual part-time, temporary and regular (benefits-eligible) introductory period employees do not have a right to appeal.

### **5.1.6 Retirement**

Employees who retire usually plan in advance for this separation. Therefore, there is an expectation that retirees let their supervisor know at least a month prior to the effective date so that transition activities can be planned.

Retirees may return to employment with the County after one month following the retirement date. There is a limit on these earnings before they affect the retirement benefit. More information can be located on the Local Government Employees' Retirement System website.

### **5.1.7 Death**

Separation will be effective as of the date of death. All compensation due in accordance with Article 7 of this policy will be paid to the estate of the employee.

## **5.2 Types of Reemployment**

Former employees may be reemployed if they resigned in good standing. Former employees may be reinstated within one year following being laid off in a reduction-in-force. They may be reinstated following a military leave of absence.

### **5.2.1 Reinstatement Following RIF - Restoration of Sick Leave and of Personal Leave Accrual Rate**

An employee in a regular or regular-introductory (benefits-eligible) position who is separated in accordance with the reduction-in-force provision may retain his/her balance of unused sick leave and his/her personal leave accrual rate upon separation for one year after the date of separation. If suitable employment into a regular (benefits-eligible) becomes available during this period, the employee may be reinstated at the request of the department head and the sick leave balance and personal leave accrual rate at the time of lay-off will be restored.

### **5.2.2 Reemployment Following Resignation - Restoration of Sick Leave**

An employee who had previously resigned from regular (benefits-eligible) position in good standing or who was laid off in a reduction-in-force over a year prior and is re-employed in a regular (benefits-eligible) position may have previously accrued unused sick leave





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through prior County service be credited to his/her sick leave account. Upon reemployment, the County will credit prior accrued unused sick leave up to the maximum of sick leave the employee would earn in a year. Upon completion of five (5) years of service to the County from the most recent employment date, the remaining balance of prior sick leave will be credited to the employee's sick leave account.

Personal leave accrual rates based on prior service are not restored with re-employment (as opposed to reinstatement); rather, they are based on the most recent employment date as the date of employment for determining length of service.

### **5.2.3 Reemployment - Prior Service and Service Awards**

For the purpose of service recognition, prior County service in a regular (benefits-eligible) position is included in the calculation of length of service in determining eligibility for service awards.

### **5.2.4 Reemployment After Military Leave**

An employee who enters extended active duty with the Armed Services of the United States, the Public Health Service, or with a Reserve component of the Armed Services is eligible for reinstatement to the same position or one of like status, seniority and pay. An employee in this category who is reinstated within five (5) years will be credited with previously accrued and unused sick and personal leave.

The employee returning from military leave may receive any salary increases which he/she might have received had the employee remained in the position, subject to the availability of funds and the limit placed by the maximum of his/her salary range. If during military service, an employee is disabled to the extent that the employee cannot perform the essential functions of the original position, the employee shall be reinstated to a position with duties commensurate with the disability and his/her qualifications, if any such position is available.



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### ARTICLE 6: CONDITIONS OF EMPLOYMENT

#### 6.0 Purpose and Applicability of this Article

This Article describes the working conditions and workplace environment employees should expect and the expectations held for employee conduct. It applies to all employees, except as described herein.

#### 6.1 Workweek

For payroll purposes, the workweek established for New Hanover County employees is the seven-day period from Tuesday through Monday. Generally, the standard operating hours and scheduled work hours for County employees is Monday through Friday, 8:00am – 5:00pm. However, other work schedules are created for some departments or operations. When the activities of a particular department require some other schedule to meet work needs, the County Manager may authorize a deviation from the normal schedule.

Department heads are responsible for managing their workforce to accomplish departmental responsibilities in a manner that most effectively meets customer requirements. Within these general guidelines, department heads have broad discretion to develop and implement flexible work arrangements for their employees. These may include approved telework arrangements for qualified exempt or non-exempt employees, as determined by the department head, when required work outcomes are well-defined with clear measures of successful accomplishment. Non-exempt employees working off-site must keep detailed records of time worked, and care must be taken to avoid overtime situations. Work schedules and compensation must meet the requirements of the County's workweek and overtime compensation policies and will be administered according to the Fair Labor Standards Act (FLSA) guidelines.

For reasons of curtailment of work or lack of funds, the County Manager, in consultation with the Board of County Commissioners, may institute changes to work weeks, days and hours of operation of County offices, work schedules, and the number of hours employees may be scheduled to work, for as long as the County Manager deems necessary. The County Manager, in consultation with the Board of County Commissioners, may implement a furlough plan.

#### 6.2 Breaks

County employees may be granted a ten (10) minute break in the morning and afternoon (except where the duties and responsibilities of the job prohibit such), at which time they may leave their workstations to pursue personal interests. Breaks are not required by any employment law; rather, this provision is simply County policy.

#### 6.3 Gifts and Favors



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

### **6.4 Solicitation - Purpose and Applicability**

The County fully supports the efforts of employees to raise funds for charitable causes and non-profit organizations, as long as these activities do not conflict with conducting County business during regular hours of operation. Therefore, a policy has been developed with respect to soliciting donations on County property or time. This policy applies to all employees.

#### **6.4.1 Solicitation Policy**

Employees shall not use the County e-mail system to broadcast solicitations for donations to a charitable cause or non-profit organization, unless with prior approval by the County Manager. However, employees may use the County intranet site to do so.

Soliciting donations for charitable causes or non-profit organizations within an employee's department is allowable with prior approval of the department head. Soliciting donations from employees in other departments must be approved by the County Manager or his designee.

Soliciting, taking and delivering orders, receiving payments and related activities shall not interfere with the employee's work or the work of others. These activities should be restricted to employee breaks and lunch times.

There may be some fund-raising campaigns endorsed by the County which may be exempt from the prohibitions in this policy.

### **6.5 Political Activity Restricted**

Every employee has a civic responsibility to support good government by every available means and in every appropriate manner. Employees may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, may advocate and support the principles or policies of civic or political organizations in accordance with the Constitution and laws of the State of North Carolina and in accordance with the Constitution and laws of the United States of America. However, no employee will:

- a. Engage in any political or partisan activity while on duty (In addition to normal work, the words "on duty" shall be understood to include attendance and participation in functions where political candidates or parties are endorsed if County funds are used for expense of traveling or membership in such organization.);



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- b. Use official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;
- c. Be required as a duty of office of employment or as a condition for employment, promotion, or tenure of office to contribute funds for political or partisan purposes;
- d. Coerce or compel contributions for political or partisan purposes by any other employee of the County; or
- e. Use any supplies or equipment or “funds” of the County for political or partisan purposes.

County employees in certain federally-aided programs may be covered by the Hatch Act as amended in 1975. This Federal Act, in addition to prohibiting (b), (c), and (d) above, also prohibits candidacy for elective office in a partisan election.

Any violation of this section shall be deemed improper and shall subject such employee to dismissal or other disciplinary action by the appointing authority.

### 6.6 Outside Employment Purpose and Applicability

The County recognizes that sometimes an employee may be employed outside of the County. However, the work of the County will take precedence over other occupational interests or employment and this policy provides guidelines for appropriate outside employment. This policy applies to all County employees.

#### 6.6.1 Outside Employment Policy

Employees may work in outside employment, if the employment is properly requested and approved and it does not conflict with the employee’s County job. Outside employment is self-employment or any employment for salaries, wages, tips or commission other than the position held with the County.

#### 6.6.2 Outside Employment Procedures

Any employee considering outside employment shall report to the responsible supervisor his/her intentions prior to the beginning of the job, occupation or self-employment. The responsible supervisor shall review the outside employment and assure that it does not:

- a. Coincide or conflict with hours of scheduled work with the County;
- b. Conflict with job responsibilities or affect the employee’s ability to perform satisfactorily at in the County job;
- c. Cause an employee to arrive late for, or leave early from, any scheduled shift or work hours in the County job; or
- d. Constitute a conflict of interest with the County.

The supervisor will then forward the request through appropriate routes to the Chief Human Resources Officer (or elected official), who will review the request for potential



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conflicts of interest or liabilities with the County in general and give final approval (or denial).

Failure to seek approval for outside employment as outlined above or to maintain such employment when not approved shall be cause for disciplinary action up to and including dismissal. If attendance or work performance is determined to be compromised by outside employment, approval for outside employment may be withdrawn.

### **6.7 Prohibited Board, Commission or Committee Service**

Persons employed by New Hanover County may not serve on any board, committee or commission established by resolution or State statutes in the agency or department for which they work and receive wages. Prior to accepting such an appointment, the employee must terminate his/her employment with the respective agency or department.

### **6.8 Patents and Copyrights**

The County has a legal interest in all inventions of County personnel that are conceived or first actually produced as a part of or as a result of County research activities within the scope of the inventor's employment by the County, and activities involving the use of County time, facilities, staff, materials, or County information not available to the public.

#### **6.8.1 Patents and Copyrights - Employee Responsibility**

County personnel who, either alone or in association with others, make an invention in which the County has or may have an interest shall disclose such inventions to the County Manager in writing.

The inventor will be notified in writing of the decision of the County Manager as to whether the County will accept the invention for patenting or licensing. If the County chooses neither to file a patent application or otherwise make available commercially nor to dedicate to the public an invention in which it asserts its rights, the invention at the County Manager's discretion, may be released in writing to the inventor.

As to any invention in which the County has an interest, the inventor, upon request, shall execute promptly all contracts, assignments, waivers or other legal documents necessary to vest in the County or its assignees any or all rights to the invention, including complete assignment of any patents or patent applications relating to the invention.

#### **6.8.2 Patents and Copyrights - Prohibitions**

County personnel may not sign patent agreements with outside persons or organizations which may abrogate the County's rights and interest as stated in the Patent Policy or as provided by any grant or contract funding the invention, nor without prior authorization



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use the name of the County or any of its units in connection with any invention in which the County has an interest.

### **6.8.3 Patents and Copyrights - Waiver of County Rights**

If the inventor believes that the invention was made outside the general scope of his or her County duties, and if the inventor does not choose to assign the rights in the invention to the County, the inventor shall, in the invention disclosure, request that the County Manager determine the respective rights of the County and the inventor in the invention, and shall also include in the disclosure information on the following points:

- a. The circumstances under which the invention was made and developed;
- b. Whether he or she requests waiver or release of any County claims or his or her representation that the County has no claim;
- c. The extent to which he or she would be willing voluntarily to assign domestic and foreign rights in the invention to the County if it should be determined that an assignment of the invention to the County is not required under the Patent and Copyright Policies.

### **6.9 Employment of Relatives Limitations**

Members of an immediate family will not be employed at the same time if such employment would result in an employee directly supervising a member of his/her immediate family. Immediate family is defined for the purpose of this section as wife, husband, mother, father, daughter, son, sister, brother, grandmother, grandfather, granddaughter, grandson, mother-in-law, father-in-law, daughter-in-law, son-in-law, sister-in-law, brother-in-law, half-sister, half-brother, stepmother, stepfather, stepson, stepdaughter, stepsister, or stepbrother. If an employee indirectly supervises an immediate family member, the indirect supervisor will not be involved in any personnel action involving that immediate family member.

### **6.10 Safety**

New Hanover County will provide a safe and healthful working place for all employees in accordance with the Occupational Safety and Health Act of 1970. The County Manager will insure a safe and healthful working place for all employees, through proper administration, implementation and enforcement of the provisions of these regulations. The Manager may appoint a Safety Officer to plan and recommend a continuing program of safety that adheres to all applicable Federal, State, and local laws, codes and regulations pertaining to employee safety. It shall be the responsibility of every employee of the County to display a positive attitude toward safety and injury prevention by following all safety rules and regulations established in the County's Safety Program. The employee will report all accidents and unsafe conditions to his immediate supervisor. Accidents are to include all unplanned occurrences, whether or not employee injury was involved.

### **6.11 Physical Examinations**



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All sworn law enforcement officers and firefighters will be required to have a physical examination to determine fitness-for-duty prior to employment and may be subject to subsequent evaluations during employment.

### **6.12 Identification Badge Policy**

The County's badge system serves a dual purpose: to provide identification and to provide access to specific buildings or areas when the doors are locked to the general public. Consistent with established procedures, appropriate badges are issued to employees, board and committee members, and certain visitors.

All employees are required to wear issued badges while in an official working capacity, including visiting other departments. Failure to do so may result in disciplinary action.

A lost or stolen badge must be reported immediately to the Human Resources Department so that it may be deactivated. Employees failing to adhere to this requirement will be subject to disciplinary actions. Employees may be charged for replacement badges. Any exception to the provision of this policy must be approved by the County Manager.

### **6.13 Tobacco-free Property - Purpose and Applicability**

This policy has been established to protect and promote the health and well-being of employees and visitors. Tobacco use has been linked to preventable, pre-mature deaths in the United States. The regulation and control of smoking or using tobacco products in buildings and vehicles owned or leased by New Hanover County is a matter of vital concern, affecting the public health, safety, and welfare of all persons employed by or transacting business with New Hanover County. This policy covers all employees and other persons in County buildings or vehicles.

#### **6.13.1 Smoking/Tobacco-Free and E-cigarette Policy**

In accordance with New Hanover Code, Chapter 32, Health and Sanitation, Article 3, smoking and the use of tobacco products shall be unlawful in any county-owned or leased buildings or vehicles, including within fifty (50) feet of a public entrance, unless the variance from the no smoking policy is granted by the County Manager. Where a variance is granted, smoking and non-smoking areas shall be clearly designated.

The use of e-cigarettes is also prohibited under this policy where smoking and the use of tobacco products are prohibited. E-cigarettes means any electronic oral device, such as one composed of a heating elements, battery, and/or electronic circuit, which provides a vapor or nicotine or any other substances, and the use or inhalation of which simulates smoking. The term shall include any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, or under any other product name or descriptor.



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### 6.13.2 Smoking/Tobacco-Free and E-cigarette Enforcement

The provisions of this policy shall be enforced by management personnel. Any reports of questionable practices or violations shall be taken seriously and referred to the County Safety Officer for resolution. Retaliatory actions against a complainant will not be condoned by New Hanover County, and should be reported to the Chief Human Resources Officer.

### 6.14 Purchasing Surplus County Property

In accordance with North Carolina General Statutes 153A-158.2 and 160A, County employees and immediate family members, unless otherwise prohibited below, may purchase any surplus county personal property of any monetary value, whether purchased by the County or donated to any representative or department of the County. Employees and immediate family members prohibited from purchasing surplus property include employees/supervisors who recommended the property be declared as surplus; any employee directly involved in working with, servicing or repairing the property; Board of County Commissioners; the County Manager; Assistant County Managers; the purchasing agent/supervisor; and immediate family of the aforementioned mentioned employees. Immediate family members as defined by New Hanover County policy include father, mother, wife, husband, so, daughter, brother, sister, grandfather, grandmother, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandson, granddaughter, half-sister, half-brother, stepmother, stepfather, stepson, stepdaughter, stepsister, and/or stepbrother.

### 6.15 Respectful Workplace Policy - Purpose and Applicability

New Hanover County recognizes its responsibility to build and maintain a respectful workplace, where all employees and citizens enjoy an environment in which the dignity and self-respect of every person is valued and which is free of offensive remarks, material or behavior. This policy establishes a standard for appropriate workplace conduct. This policy covers all County employees, including regular (benefits-eligible), casual part-time, temporary, contract workers, volunteers, and anyone else on County property or engaged in County business with a County employee, whether or not on County property. Violation of this policy by any individual will be subject to appropriate corrective action. Violation of this policy by a County employee may lead to disciplinary action up to and including dismissal.

#### 6.15.1 Respectful Workplace Policy

It is the policy of New Hanover County to maintain a professional and respectful work and public service environment. The County will not tolerate disrespectful behavior by or towards any employee or other individual by employees, visitors or vendors.

This policy provides for:





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- a. Fostering a workplace which values diversity; personal dignity; courteous conduct; mutual respect, fairness and equality; positive communication between people; collaborative working relationships;
- b. A reporting/complaint procedure for any individual who experiences or witnesses behavior prohibited by this policy;
- c. A response procedure for supervisors who become aware of behavior prohibited by this policy;
- d. Accountability for violations or enforcement failures through appropriate disciplinary actions;
- e. Actions by the County to heighten employees' and supervisors' awareness of workplace violence issues, including domestic violence as it relates to the workplace.

This policy prohibits disrespectful behavior, including but not limited to, the following:

- a. Offensive and inappropriate remarks, gestures, material and behavior;
- b. Grouping or isolating;
- c. Yelling;
- d. Belittling;
- e. Reprimanding in the presence of others;
- f. Aggressive or patronizing behavior;
- g. Embarrassing or humiliating behavior;
- h. Damaging gossip or rumors;
- i. Covert behavior, i.e., inappropriately withholding information, undermining, underhandedness;
- j. Unlawful discrimination or harassment as defined by federal and state laws;

### **Employee Responsibilities:**

- a. Treat others with respect;
- b. Set an example by respecting the dignity and human rights of all employees and members of the public;
- c. Recognize and refrain from actions that offend, embarrass or humiliate others;
- d. Raise disrespectful conduct with the employee displaying it or with a person in authority as soon as possible;
- e. Do not make allegations of disrespectful behavior that are frivolous or vindictive;
- f. Make every effort to resolve respectful workplace, where possible in an informal manner.

### **Supervisory/Management Responsibilities:**

- a. Supervisors and managers are responsible to immediately act upon any situation involving disrespectful behavior. They will:
- b. Promote awareness of this policy;
- c. Recognize and address actions that offend, embarrass or humiliate others;
- d. Treat each situation as a serious matter;
- e. Manage the situation towards a resolution between the parties if possible, with a view to correcting behavior and preserving long term working relationships;



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- f. Ensure that there are no reprisals against employees making a complaint or participating in an investigation;
- g. Provide support to employees who are experiencing the effects of disrespectful behavior;
- h. Inform employees of Employee Assistance Program services;
- i. Consult with Human Resources if the situation cannot be resolved.

### **6.15.2 Respectful Workplace Policy Procedures - Reporting Violations**

An employee who believes he or she has been subjected to a violation of this policy and who has either opted not to try to personally resolve the situation or who has been unsuccessful in attempting a resolution should report the violation immediately to his or her supervisor. If the employee's supervisor is the source of the alleged policy violation, or if the employee's supervisor does not respond to the report in a timely and appropriate manner, the employee should contact the Human Resources Department.

### **6.15.3 Respectful Workplace Policy Procedures - Investigating Reports of Violations**

New Hanover County will promptly and thoroughly investigate any verbal or written report of a violation of this policy, and will respond to the reporting employee or other individual regarding the results of the investigation, except that specific personnel actions taken may not be revealed. The investigation will be kept reasonably confidential; however, it may be necessary to confront the employee who has allegedly violated the policy concerning the allegation.

### **6.15.4 Respectful Workplace Policy Procedures - Corrective Actions**

Any employee found to have acted in violation of this policy shall be subject to appropriate corrective and disciplinary actions, up to and including dismissal. Any visitor or vendor found to have acted in violation of this policy shall be subject to responsive action as determined appropriate by the County, up to and including being removed from the workplace and being prohibited from returning in the future.

### **6.15.5 Respectful Workplace Policy Procedures - Retaliation**

New Hanover County will not tolerate retaliation or intimidation directed towards any employee or other individual who makes a verbal or written report of a violation of this policy or serves as a witness to a violation of this policy. Any individual who retaliates against or intimidates an employee making a report or a witness shall be subject to disciplinary action, up to and including dismissal.

## **6.16 Unlawful Workplace Harassment Policy - Purpose and Applicability**



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The County is committed to maintaining a work environment free of discrimination and harassment where all employees are free to devote their full attention and best efforts to the job. Harassment, either intentional or unintentional, has no place in the work environment. Accordingly, the County does not authorize and will not tolerate any form of harassment of and by anyone based on race, sex, color, religion, national origin, age or disability. This policy covers all County employees, applicants or other individuals in the County workplace.

### **6.16.1 Unlawful Workplace Harassment -Policy Statement**

In accordance with employment discrimination law, the County prohibits any supervisor, employee, agent or customer of the County from harassing or otherwise discriminating against any individual on the basis of race, sex, color, religion, national origin, age or disability. Nor shall any supervisor, employee, agent or customer of the County make unsolicited or unwanted sexual advances of a verbal or physical nature toward another employee, applicant for employment or any other individual.

Personnel decisions (including decisions affecting hiring, promotion, work assignments, disciplinary actions, receipt of benefits, or participation in organization-sponsored programs) shall not be based on an individual's protected status, or submission to or rejection of any act of sexual harassment.

All complaints of unlawful workplace harassment, including sexual harassment, will be investigated promptly and where necessary, immediate appropriate action will be taken to stop and remedy any such conduct. Any supervisor, agent or employee found in violation of this policy is subject to disciplinary action, including dismissal.

### **6.16.2 Unlawful Workplace Harassment - Description of Prohibited Conduct**

Unlawful workplace harassment is unwelcome or unsolicited speech or conduct based on race, sex, color, religion, national origin, age or disability that creates a hostile work environment.

Sexual harassment is defined by EEOC guidelines as "unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature," where one or more of the following occur:

- a. Submission to sexual advances is a term or condition of employment;
- b. Submission to or rejection of sexual advances is used as the basis for making employment decisions;
- c. Such verbal or physical conduct, explicit or implicit, interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment.

The term "harassment" includes, but is not limited to, offensive language, jokes or other verbal, graphic or physical conduct relating to an individual's race, sex, color, religion, national origin, age or disability which would make a reasonable person experiencing



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harassment uncomfortable in the work environment or which could interfere with the person's job performance.

Sexual harassment may be overt or subtle. Sexual harassment does not refer to behavior or occasional compliments of a socially acceptable nature. It refers to personally offensive behavior. Some examples of behavior which may constitute sexual harassment are: making unwelcome sexual flirtation, advances, request for sexual favors, or other verbal, visual, physical conduct of a sexual nature creating an intimidating, hostile or offensive work environment by such conduct as: sexual innuendo or sexually suggestive comments, including, but not limited to, sexually oriented picking, teasing, or practical jokes; jokes about gender-based traits; foul or obscene language or gestures; subtle or direct pressure or requests for sexual activities; unnecessary touching of an individual, such as pinching, patting, brushing up against another body; graphic verbal comments about an individual's body or appearance, sexually degrading words to describe an individual; the reading or display of sexually suggestive or revealing words, objects or pictures; or physical assault.

### **6.16.3 Unlawful Workplace Harassment - Complaint Procedures**

The following procedures are written to encourage individuals who perceive instances of unlawful workplace harassment, including sexual harassment, to use the County's internal procedures to resolve the situation and/or complaint without fear of retaliation. Once a complaint is received, the County has an obligation to thoroughly investigate the complaint and take appropriate action.

- a. The complaining party should report, orally or in writing, any instances of perceived unlawful workplace harassment, including sexual harassment, to his or her supervisor, department head, and/or to any member of Human Resources staff.
- b. The supervisor or department head to whom the complaint is made shall notify the Human Resources Department within three (3) business days of the complaint.
- c. The Human Resources Department will receive the written complaint and any supporting evidence and/or documentation or cause a written complaint to be made from interviewing the complaining party.
- d. The Chief Human Resources Officer shall notify all concerned parties that a complaint has been filed.
- e. The Chief Human Resources Officer will assign the complaint to a Human Resources staff member who will immediately begin to investigate the complaint.
- f. The investigation will consist of interviewing all concerned parties, including the complaining party, the alleged offender(s) and witnesses, and gathering any other relevant evidence or documentation.
- g. The Chief Human Resources Officer will take appropriate interim action, if necessary.



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- h. The investigation shall be completed and a report given to the Chief Human Resources Officer within fifteen (15) business days of the receipt by the Human Resources Department of the written complaint, unless an extension is granted by the complaining party will make a determination as to the resolution of the complaint and will notify the concerned parties of the determination.
- i. Individuals found in violation of this policy shall be subject to disciplinary actions, up to and including dismissal. The Chief Human Resources Officer will determine appropriate disciplinary action and will notify the employee in writing of the determination, the effective date, the reason therefor, and the employee's appeal rights under this Article. The written notification shall be sent to the employee's home address by certified, registered mail.

All complaints and subsequent investigations will be held in strictest confidence.

### **6.16.4 Unlawful Workplace Harassment - No Retaliation**

Retaliatory actions against the complaining party and his/her witnesses will not be tolerated by New Hanover County. Complaints of retaliation will be immediately investigated and appropriate action will be taken by the Chief Human Resources Officer.

### **6.16.5 Unlawful Workplace Harassment -Complaint Determination Appeal Procedures**

If the employee wishes to appeal the Chief Human Resources Officer's determination and disciplinary action and if the employee has successfully completed the introductory period, he or she may, within five (5) business days after receipt of the determination, appeal in writing to the County Manager. The appeal must be received by the County Manager's Office no later than 5:00 p.m. on the fifth day. The appeal must contain the employee's response to the charges, a response to the disciplinary actions taken, the remedy desired and any other pertinent information or evidence.

If the appealed disciplinary action is dismissal, the County Manager may grant a hearing with the employee. Otherwise, the County Manager will review the contents of the file prepared by the Chief Human Resources Officer and the contents of the employee's appeal.

If the appeal does not involve a hearing, the County Manager will render a decision, which includes the basis for the decision and evidence relied upon, within five (5) business days after receipt of the appeal and will send the decision to the employee's home by certified, registered mail. The decision of the County Manager will be final.

In the event a hearing is held, the appealing employee and the Chief Human Resources Officer will both be present and have the right to be represented by counsel. Either party may request the presence of any person(s) who will provide information to assist the County Manager in making a decision. The names of such persons, including the name of



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counsel hired by the employee, and how each is related to the case, shall be submitted to the County Manager no later than five (5) business days prior to the hearing date. The County Manager will reserve the right to limit the number of persons to appear.

The County Manager will render a decision, which includes the basis for the decision and evidence relied upon, within five (5) business days after the hearing and will send the decision to the employee's home by certified, registered mail. The decision of the County Manager will be final.

### **6.16.6 Formal Harassment Charge**

Although employees are encouraged to pursue resolution through these internal procedures available to them, whether they do or not, they retain the right to file a formal charge of discrimination with the Equal Employment Opportunity Commission (EEOC).

### **6.17 Workplace Violence Policy - Purpose and Applicability**

New Hanover County is committed to providing a workplace which is safe, secure and free from violence. Workplace violence includes, but is not limited to, intimidation, bullying, threats, physical attacks, domestic violence, or property damage committed by County employees or other individuals against County employees while on County property or while in the performance of their duties. These kinds of behaviors will not be tolerated and, if they occur, will be appropriately addressed in accordance with this policy. Also included in this policy, are proactive provisions to heighten awareness of violence in the workplace, including domestic violence, and to provide guidance for employees and management in recognizing and appropriately responding to these issues.

This policy covers all County employees, including regular (benefits-eligible), casual part-time, and temporary employees, contract workers, volunteers, and anyone else on County property or engaged in County business with a County employee, whether or not on County property. Violation of this policy by any individual will be subject to appropriate legal action. Violation of this policy by a County employee may lead to disciplinary action up to and including dismissal.

#### **6.17.1 Workplace Violence - Policy Statement**

This policy provides for:

- a. A reporting/complaint procedure for any individual who experiences or witnesses' behavior prohibited by this policy;
- b. A response procedure for supervisors who become aware of behavior prohibited by this policy;
- c. Accountability for violations or enforcement failures through appropriate disciplinary actions;
- d. Actions by the County to heighten employees' and supervisors' awareness of workplace violence issues, including domestic violence as it relates to the workplace;



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- e. Supporting victims of workplace or domestic violence;
- f. Fostering a climate of trust and respect among workers and between employees and management; and
- g. When necessary, seeking advice and assistance from outside resources, including threat assessment; psychologists, psychiatrists and other professionals, social service agencies, and law enforcement.

This policy prohibits any acts of aggression or violence from any individual while on County property or against a County employee acting as a representative of the County, whether on County property or not. These acts include but are not limited to:

- a. Any act or threat of bodily harm or property damage, including subtle or implied threats to an individual or his or her family, friends, or associates. (A threat is the expression of an intent to cause physical harm or property damage as would be perceived by a reasonable person, without regard to whether the party communicating the threat has the present ability to carry it out; whether the threat is subtle or overt in nature; or whether the expression is contingent, conditional or future).
- b. Fighting or other physical altercations. (A physical altercation is unwanted or hostile physical contact such as fighting, hitting, pushing, shoving, throwing objects, grabbing, touching or any unwanted physical contact.)
- c. Unauthorized possession or use of any weapon or caustic/dangerous chemicals, whether concealed or visible, on County property, except by sworn law enforcement officers or other employees as required to perform their job duties or as otherwise allowed by law.
- d. Use or threat of use of weapon on/in County property. (A weapon includes, but is not limited to, firearms, explosives, caustics/chemicals, ammunition, knives or other dangerous or deadly weapons.) Use of other items as weapons, such as a tool or furniture, is also prohibited.
- e. Use of language which would be regarded by a reasonable person as likely to invoke violence.
- f. Repeated following of another individual, known as “stalking” or threatening another person with the intent to place the other person in reasonable fear of his/her safety.
- g. Making harassing or threatening phone calls, letters or other forms of written or electronic communications.
- h. Intentionally damaging or threatening to damage County or employee property.

### **6.17.2 Workplace Violence Policy -Employee Responsibility**

Employees have the responsibility to adhere to this policy and its established preventive practices and to report violent or threatening behavior or other warning signs, following procedures established by this policy.



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Any employee who experiences or witnesses any acts, conduct, behavior or communication which is in violation of this policy, must immediately contact either his/her supervisor, department head or the Human Resources Department, and if necessary, local law enforcement.

Employees should not try to handle a violent or potentially violent incident. When reporting an imminent threat and/or act of violence, an employee should first secure his/her own safety, contact local law enforcement and, if possible, alert persons in the immediate area. Employees threatened, assaulted or attacked, while on official duty in the field, shall immediately report such incidents to local law enforcement and their supervisor.

If anyone commits a violent act or makes a direct threat while on County property, the person will be asked to leave by a supervisor. Should the person refuse to leave, local law enforcement should be contacted to assist in removing the person.

Any employee who violates the workplace violence policy will receive appropriate disciplinary action which may include dismissal. Employees who have information about workplace violence, but do not report it in accordance with this policy, will be subject to appropriate disciplinary action which may include dismissal.

The County will not tolerate retaliation against an employee for reporting instances of workplace violence. Incidents of retaliation should be reported to the Human Resources Department immediately. Every effort will be made to protect the safety and anonymity of anyone who comes forward with concerns about a threat or act of violence.

### **6.17.3 Workplace Violence Policy -Supervisory/Management Responsibility**

Supervisors and managers will support the County's policies created to provide work environments that are safe from violence, threats and harassing/aggressive behavior. To that end, they shall:

- a. Inform all employees that workplace violence or other abusive, aggressive or disruptive behavior in any form will not be tolerated in the workplace.
- b. Be aware of any patterns or changes in employee behavior which could pose a concern for the workplace. Such behavior should be documented by the supervisor for the record. Changes in behavior should be addressed with the employee after consultation with Human Resources.
- c. Be alert to the possibility of workplace violence on the part of former employees, citizens or others.
- d. Offer support to victims of workplace violence, which includes domestic violence.
- e. Be aware of the location and telephone numbers of community resources available in responding to any actual or potential workplace violence, including domestic violence. The County intends to publish, maintain, and post in locations of high visibility, a list of resources for survivors and perpetrators of domestic violence.





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- f. When aware of a threat or imminent danger of violence to an employee, immediately notify that employee of the danger and notify law enforcement or the Human Resources Department.
- g. Notify law enforcement or the Human Resources Department when they receive a notice or complaint of workplace violence or if they suspect that these acts are occurring or have occurred.
- h. Take all threats seriously. Failure to appropriately respond to complaints or observed threat or imminent danger situations may result in disciplinary action which may include dismissal.
- i. Maintain appropriate confidentiality for the victim.

### 6.17.4 Workplace Violence -Response

To respond to an event of actual or threatened workplace violence, the County will use a three-level plan of action. The Chief Human Resources Officer or his designee will serve in the lead role and will assemble others as needed.

#### Level 1: Threats

When an individual states or implies a threat of violence, the employee(s) who received or observed the threat shall immediately alert a supervisor. The supervisor, as soon as possible, should notify and consult with the Chief Human Resources Officer, his designee or the County Safety Officer. The supervisor will then document the incident and any actions taken, a copy of which will be forwarded to the Chief Human Resources Officer or his designee.

#### Level 2: Danger is imminent

An immediate threat of violence shall be reported in accordance with the policy set forth above. After law enforcement personnel have been called to secure the location, the supervisor will contact the Chief Human Resources Officer, his designee or the County Safety Officer.

The Chief Human Resources Officer or his designee will conduct an investigation of the incident and determine what other actions are needed.

#### Level 3: An act of violence which results in injuries or death

When a violent act occurs in the workplace, the first priority will be to attend to the immediate danger and injuries. The first response to an actual act of violence is to contact appropriate emergency response personnel.

As soon as possible, the supervisor on location will contact the Chief Human Resources Officer, his designee or the County Safety Officer. The Chief Human Resources Officer or



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his designee will be responsible for coordinating the administrative investigation of the incident and determining what other resources are needed for the County to respond to the incident. The County's response will include assembling resources to address employee needs and media requests. Details of the administrative investigation will be kept confidential unless prohibited by law.

### **6.17.5 Domestic Violence - Victim Workplace Issues**

The County shall not discharge, demote, deny a promotion, or discipline an employee because the employee took reasonable time off from work to obtain relief under Chapter 50B (domestic violence order of protection) or Chapter 50C (civil no-contact order for nonconsensual sexual contact or stalking). An employee who is absent from the workplace to obtain such relief shall follow the department's usual leave request policy or procedure, including advance notice to the employee's supervisor, unless an emergency prevents the employee from doing so. Management may require documentation of any emergency that prevented the employee from complying in advance with the department's usual leave request procedure, or any other information available to the employee which supports the employee's reason for being absent from the workplace.

Consistent with the County's usual leave policies, employees may apply available personal or sick leave to obtain medical, counseling, or legal assistance to address problems relating to workplace or domestic violence.

Depending on the circumstances, employees who are victims of workplace or domestic violence may also need special accommodations or adjustments to their work schedule or location in order to enhance their safety. Management shall use their discretion to accommodate these requests and needs whenever possible and appropriate.

### **6.18 Weapons in the Workplace**

The County believes it is important to establish a clear policy that addresses weapons in the workplace. All persons who enter County buildings are prohibited from carrying a handgun, firearm, knife, or other weapon of any kind regardless of whether the person is licensed to carry the weapon or not.

The only exception to this policy will be police officers, deputy sheriffs, security guards or other persons who have been given written consent by the County to carry a weapon on the property.

Any employee disregarding this policy will be subject to immediate dismissal.

### **6.19 Alcohol and Drug Free Workplace Policy - Purpose and Applicability**



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

This policy covers applicants and all County employees to include regular (benefits-eligible) employees, casual part-time employees, temporary employees and contract employees. Under federal guidelines, certain classes of employees are subject to special actions, such as random testing. For the County, these classes include employees in safety-sensitive positions. The Chief Human Resources Officer will maintain a comprehensive list of these positions subject to special actions, but generally the list will include, but is not be limited to, sworn law enforcement officers; detention officers; firefighters; employees who are responsible for testing and treating water, raw sewage or wastewater; employees who handle hazardous materials in large quantities; employees who operate, maintain, or provide direct supervision of the operation or maintenance of heavy equipment or any vehicle requiring a CDL to operate; or employees who may independently work closely with or transport children.

### **6.19.1 Alcohol and Drug Free Workplace Policy**

This policy provides for:

- a. Assistance in treatment and rehabilitation for employees who notify an appropriate authority in their department or in the Human Resources Department of an abuse problem prior to being discovered. In such cases, medical plan coverage is provided for both inpatient and outpatient treatment of employees who have County medical insurance coverage and the use of accrued leaves may be approved for treatment and rehabilitation purposes.
- b. Training and guidelines for employees and supervisors.
- c. Drug and alcohol abuse testing: pre-placement; post-accident; reasonable suspicion; random; and return-to-duty and follow-up.
- d. Accountability for violations or enforcement failures through appropriate disciplinary actions.

This policy prohibits:

- a. The unauthorized use, consumption, possession or storage, manufacture, distribution, dispensation or sale of alcohol, controlled substances, illegal drugs or drug paraphernalia on County premises or any County work area, in County vehicles, or while on County business.
- b. Reporting to work or working on County premises or in any County work area, in County vehicles, or while on County business while under the influence of, or impaired by illegal drugs, non-prescribed drugs or alcohol, or when the consumption of illegal drugs, non-prescribed drugs, or alcohol have been confirmed.



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

### **6.19.2 Alcohol and Drug Free Workplace Policy - Responsibility**

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

A list of positions designated to be safety-sensitive for special actions, such as random testing, will be maintained by the Chief Human Resources Officer and will be made available upon request.

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

Department heads are responsible for the proper application of the procedures in their departments and for holding supervisors accountable for the daily implementation of the policy.

Department heads and supervisors shall be responsible for identifying abuse-related behavioral and performance problems, following the proper referral for testing, and



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taking appropriate disciplinary measures. Failure to take action when the supervisor has reasonable cause to believe an employee has violated the prohibitions of this policy will result in disciplinary action being taken against the supervisor. If in doubt about what action to take, the supervisor should consult with the department head, the Chief Human Resources Officer or the County Safety Officer. It is also the supervisor's responsibility to protect the privacy, confidentiality, and dignity of employees by minimizing the number of employees who learn of suspicions, involving a co-worker's possible substance abuse or actions taken against that employee.

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

### **6.19.3 Employee Voluntarily Reveals Substance Abuse Problem**

An employee who voluntarily reveals a substance abuse problem to a supervisor before being notified to be tested, before testing positive for substance abuse and before other discovery of a substance abuse problem, may voluntarily enroll in a drug or alcohol rehabilitation program and is encouraged to use the Employee Assistance Program (EAP) to do so.

An employee who voluntarily notifies his supervisor of a dependency may be granted a medical leave in accordance with County policy on leaves of absence to undergo an agreed-to certified rehabilitation program which requires the employee to be absent from his duties. Return to work will be authorized upon certification to the Human Resources Department of successful completion of the program and a negative test result.

Return-to-duty and follow-up: Employees who have voluntarily removed themselves from their job duties and have voluntarily undergone and successfully completed treatment for drug or alcohol abuse must submit to and furnish a negative test result prior to returning to duties. The return-to-duty test may involve both drug and alcohol tests, if the treating substance abuse professional indicates a multiple-substance abuse problem exists. These employees will also be subject to random, unannounced tests six (6) times a year for a period of up to two (2) years, as a condition of continued employment. Positive results on a test will result in immediate dismissal with no opportunity for reemployment.



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### 6.19.4 Enforcement- Drug/Alcohol Testing

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

- a. Pre-employment: Applicants accepting a conditional offer of employment in any position will be required to submit to a test before being hired.
- b. Job Changes: Employees accepting a promotion, demotion or transfer to any position will be required to submit to a test before the personnel action can be completed, just as applicants are subject to pre-employment testing. Recruitment advertisements include the requirement for pre-employment drug screening so that applicants know of this requirement before applying. Following a conditional offer of employment by the hiring department, arrangement will be made for the candidate to be tested. Human Resources will notify the hiring department about the results once they are received.
- c. Reasonable Suspicion: Employees may be required to submit to a test if reasonable suspicion of illegal drug use or drug/alcohol use/abuse exists. “Reasonable suspicion” is a belief based on objective facts sufficient to lead a reasonable person to suspect an employee has violated the prohibitions of this policy and is incapable of satisfactorily and safely performing assigned duties and responsibilities. It is a quantity of proof or evidence that is more than just intuition or strong feeling; it must be based on facts. Facts supporting a reasonable suspicion determination include, but are not limited to, any one or more of the following: direct observation of prohibited drug or alcohol use; slurred speech; irregular or unusual speech patterns; impaired judgment; marijuana or alcohol odor; uncoordinated walking or movement; unusual or irregular behavior such as inattentiveness, listlessness, hyperactivity, hostility or aggressiveness; a pattern of unexplained preventable accidents or information based on specific, objective facts that an employee has caused or contributed to an accident at work while under the influence of alcohol or drugs; a report of alcohol or drug use by an employee while at work by a credible source; possession of alcohol or drugs; evidence an employee is involved in the unauthorized possession, sale, solicitation or transfer of alcohol or drugs while working or while on the County’s premises or operating a County vehicle, machinery or equipment; arrests, citations and deferred prosecutions associated with drugs or alcohol.

When there is reasonable suspicion, the supervisor shall:

1. Arrange for another supervisor to verify reasonable suspicion, if possible.
2. Confront the employee privately about the performance/behavioral issues, stating suspicions, and allow the employee to state a reasonable explanation. A second party, preferably a supervisor, should be present.
3. The supervisor will inform the employee that a reasonable suspicion test is an obligation and refusal to submit to it will result in termination. If the employee agrees to take the test, the employee will be informed that s/he is suspended



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with pay and will be notified whether or not and under what circumstances s/he will be allowed to return to work.

4. The supervisor will transport the employee to the appropriate testing facility. The sample should be taken as soon as is practicable from the time the employee is suspected, but no later than two (2) hours following the determination of reasonable suspicion. If the test is not administered within two (2) hours, the supervisor must document the reason(s) that the test was not properly administered. If the employee refuses to take the test, he or she will be immediately placed on administrative suspension without pay and scheduled for a pre-dismissal hearing with the department director. If the testing is not done within two (2) hours due to some reason other than the employee's refusal, the following should occur: The employee shall not be allowed to remain on duty until negative test result is obtained or 24 hours have elapsed following the determination of reasonable suspicion.
- d. Random: Employees in designated safety-sensitive and security-sensitive positions will be subject to random, unannounced drug and alcohol screening. The Chief Human Resources Officer will develop and maintain a list of jobs approved for random testing. The rate of random selection for drugs and alcohol will be a percentage of the annual average employee base. Every employee in the pool has an equal chance of being chosen each time a random selection is made. When an employee is required to submit to random testing, s/he will be notified verbally by a supervisor.
  - e. Post-accident: Employees will be tested following an on-the-job accident or other occurrence that involves one or more of the following events: a fatality, a serious injury to an employee or other individual, substantial damage to vehicles or other property, or if the employee receives a citation under state or local law for a moving traffic violation arising from the accident. Employees may also be tested after a series of minor on-the-job accidents or injuries as determined by the department director or County Safety Officer.

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

Post-accident tests will be administered as soon as possible, but ideally not more than eight (8) hours after the accident. An alcohol test should be administered within two (2) hours of an accident. If unable to test within (2) hours, the supervisor must



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document the reason(s) for the time delay. If the test is not performed within eight (8) hours, the supervisor will cease attempts to administer the test and will document the reason(s) why the test was not conducted. The employee must refrain from consuming alcohol for eight (8) hours following an accident or until the alcohol test has been completed, whichever comes first. The employee must remain available for drug and alcohol testing or it will be considered a refusal, unless the employee is seriously injured.

### 6.19.5 Refusal to Test/Positive Test Results

#### A. Applicants

Failure to submit to a test or a positive test will exclude an applicant from being hired. Applicants who test positive will not be considered for employment with the County for two (2) years after the test date and then only when they have presented acceptable proof of successful completion of a rehabilitation program and they pass a pre-employment drug/alcohol test.

#### B. Employees

Refusal to submit to a test will result in termination of employment with the County.

A commitment to an alcohol and drug free workplace means that the use of illegal or unauthorized drugs are prohibited. Any violations to the prohibitions of this policy will not be allowed and may result in disciplinary action up to and including dismissal. The severity of the action will be based on factors including the risk of the violation to the public and to others.

Positive results from a drug or alcohol testing may result in disciplinary action up to and including dismissal. The severity of the action will be based on the impact and risk to the public and to others. Facts used to determine the appropriate action include but are not limited to the level of impairment, risk of harm to the public and others, the mental or physical capacity of the employee due to the levels of drugs or alcohol, or whether the employee was appreciably impaired.

### 6.19.6 Surrender of Drugs, Paraphernalia

If an employee is observed using a suspected substance, the supervisor may demand that the employee surrender the item and related paraphernalia.

### 6.19.7 Transportation to Medical Facility or Home

Any employee who is unable to drive safely or is in need of medical assistance will be transported by a supervisor to a medical facility or to his/her home, as appropriate. If the employee refuses, s/he will be advised that local law enforcement authorities will be





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notified that an employee who seems to be “under the influence” is trying to leave the premises.

### **6.19.8 Alcohol and Drug Free Workplace Policy -Inspections and Searches**

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

### **6.19.9 Alcohol and Drug Free Workplace Policy - Employee Options**

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

Employees will be given an opportunity to seek assistance through the County’s Employee Assistance Program (EAP), or another drug and alcohol rehabilitation program approved by the County. However, involvement in these programs after the fact of a violation will not influence the disciplinary action taken. The employee is eligible for this benefit for a limited period of time following termination.

### **6.20 Personal Use of County Equipment**

Employees may use certain tools and equipment for their own personal use while on County premises. Under no circumstances may this be done off County premises, or without prior management approval. In addition, employees may only use County property when they are on a non-paid break or during a scheduled time when not actively working such as a day off or after returning to work from home.

While using County equipment for your personal use, the County will not be liable for personal injuries resulting from such use. The employee is responsible for any and all liabilities for injuries or losses which occur, or for the malfunction of equipment. The employee is responsible for returning the equipment or tools in good condition, and will be required to pay for any damages that occur while using the equipment or tools for personal projects.

### **6.21 Polygraph Examination**

Upon approval by the County Manager, an employee accused of misconduct may be required to submit to a polygraph examination during the County’s investigation of the allegation. Prior to the administration of the polygraph examination, the affected employee must be informed:

- That the questions will relate specifically and narrowly to the performance of official duties;



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- That the answers cannot be used against the employee in any subsequent criminal prosecution; and
- That the penalty for refusing to participate in the polygraph exam is dismissal.

### 6.22 Attendance

Employee's attendance is extremely important to the success of County services. The County expects employees to strive for perfect attendance and to arrive for work on time. However, it is understood that, on occasion, an employee may not be able to come to work or may need additional time before arrival. Sickness and other emergencies cannot always be anticipated and may require an employee to miss all or part of the work day.

Employees who cannot report to work as scheduled must notify their immediate supervisor as soon as possible, but not later than thirty (30) minutes after the employee's regularly scheduled starting time. Employees must let their supervisor know for how long they will be out and when they expect to return or, as the case may be, arrive for work.

Excessive absences, or lateness and excessive patterns of absences or lateness may lead to disciplinary action, up to and including dismissal. Supervisors may restrict or limit the amount of approved paid leave as a corrective measure to such patterns. If an employee is absent from work for three (3) consecutive days without notice, the County will consider that the employee has voluntarily resigned his or her position.

### 6.23 Social Media Policy

Employees are expected to act responsibly and exercise good judgment when interacting with social media resources. When using social media resources for personal and private reasons, employees must ensure a distinct separation between personal and organizational views and must not speak as a representative of the County.

Inappropriate usage of social media resources may be grounds for disciplinary action, up to and including dismissal. Inappropriate usage of social media sources for any reason includes but is not limited to:

- a. Use of County equipment to visit social media sites for personal reasons in violation of County "acceptable use" policies;
- b. Not ensuring a distinct separation between personal and organizational views;
- c. Making statements that give the appearance as being made by a representative of the County when unauthorized to make such statements as a representative;
- d. Discourteous treatment of or disrespectful behavior toward the public or other employees
- f. Conduct or behavior unbecoming to a public officer or employee;  
Releasing information about the County that is confidential.

### 6.24 Report of Motor Vehicle Citations or Infractions and Criminal Charges and Convictions



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Motor vehicle citations or infractions and convictions and any criminal (misdemeanor/felony) charges and convictions must be reported to the immediate supervisor by the first working day following the charge or conviction. The severity of the offense will be evaluated in relation to the position held by the employee at the time it occurred. In some cases, the severity of the offense may result in disciplinary action, up to and including dismissal.



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### ARTICLE 7: LEAVE POLICIES

#### 7.0 Purpose and Applicability

The County's leave policies provide employees with the opportunity to attend to personal and family matters, to renew their physical and mental capabilities and to remain fully productive employees. Paid leave policies apply to regular (benefits-eligible) employees.

The use of paid leave during any biweekly period must not result in hours paid that exceed an employee's scheduled (budgeted) biweekly hours. An exception to this is when the leave is for a paid holiday for which the employee is eligible. Other unusual circumstances must be approved by the Chief Human Resources Officer.

Casual part-time and temporary employees may be eligible for some unpaid leave due to circumstances specified below.

#### 7.1 Holiday Leave

New Hanover County will observe the same holiday schedule as designated by the Office of State Personnel.

##### 7.1.1 Holiday Leave –Eligibility

Only employees assigned to regular (benefits-eligible) positions who, on the work day preceding and following the holidays, were (1) at work, or (2) in an approved paid leave status, shall be eligible to receive holiday pay. If County offices are closed on the day before or after a County holiday due to furlough or if employees are otherwise required to take leave without pay on either day due to budgetary reasons, the County Manager may waive the requirement that employees work or are in an approved paid leave status on those particular furlough days.

##### 7.1.2 Holiday Leave -Number of Hours Paid

The amount of time allowed for a paid holiday is based on the number of annual hours for which an employee's position is budgeted. If employees' normal work schedules are other than the standard 2,080 hours/year, their holiday pay may be prorated based on the number of hours budgeted for their positions. Fire Services staff scheduled to work 24-hour shifts receive 12 hours of holiday pay for each holiday.

##### 7.1.3 Holiday Leave - Working on a Holiday

If employees must work on a paid holiday and they are in a position that is non-exempt from the FLSA, they will be paid for all time worked in addition to holiday pay. If they are



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exempt from the FLSA, they will be granted a paid holiday at a later date of their choosing with their supervisor's prior approval. They are encouraged to take this holiday before the end of the calendar year if possible.

### 7.1.4 Holiday Leave - Effect of Other Paid Leave

Sick or personal leave or some other paid leave may not be used if an employee is not eligible for holiday pay. Employees eligible for holiday leave may use other paid leave to augment the holiday leave for reasons that may include accommodating flexible schedules.

## 7.2 Personal Leave

Personal leave may be used for rest and relaxation and for approved sick leave. Only regular benefits-eligible employees can accrue personal leave.

### 7.2.1 Personal Leave - Accrual

Regular (benefits-eligible) employees scheduled/budgeted to work 2,080 hours a year shall accrue personal leave based on consecutive years of County service, as follows:

Years of Service	Personal Leave Hours Accrued per Pay Period	Personal Leave Days Accrued per Year
Up to 2	3.0769	10
2-4	3.6923	12
5-9	4.6154	15
10-14	5.5385	18
15-19	6.4615	21
20 or more	7.3846	24

Regular (benefits-eligible) part-time employees shall accrue personal leave at a rate which is prorated in accordance with the per cent of full-time equivalency (FTE) scheduled/budgeted to work. For example, the accrual rate for a regular (benefits-eligible) part-time employee who is scheduled/budgeted to work 50% of a full-time position (.50 FTE; 1,040 hours a year; 20 hours a week) is 50% of the above accrual rates.

Regular (benefits-eligible) employees scheduled/budgeted to work more than the standard 2,080 hours in a year and whose workday hours exceed the standard eight (8) hours, shall accrue personal leave at the prorated amounts indicated below:



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- Regular (benefits-eligible) employees scheduled/budgeted to work 2,184 hours a year shall accrue personal leave at a rate which is 5.0% higher than those scheduled/budgeted to work 2,080 hours a year.
- Regular (benefits-eligible) employees scheduled/budgeted to work 2,340 hours a year shall accrue personal leave at a rate which is 12.50% higher than those scheduled/budgeted to work 2,080 hours a year.
- Regular (benefits-eligible) employees scheduled/budgeted to work 2,904 hours a year shall accrue personal leave at a rate which is 39.62% higher than those scheduled/budgeted to work 2,080 hours a year.

### **7.2.2 Personal Leave - Use**

Personal leave may be taken as earned by the employee, subject to the approval of the employee's supervisor. When the personal leave is due to medical necessity, the County may require a health care provider's certificate concerning the nature of the illness and the employee's physical capacity to resume duties. Where the leave is requested to care for an ill family member, the County may require certification from that family member's health care provider specifically the care the employee will provide to the family member.

### **7.2.3 Personal Leave - Maximum Accumulation**

Employees working the standard 2,080 hours per year may accumulate personal leave to a maximum of 320 hours. The maximum accumulation for employees working other than the standard 2,080 annual hours, will be determined as a prorated amount of the standard maximum.

When the maximum has been accumulated, all additional accrued personal leave over and above the maximum will be converted to sick leave and credited to the employee's sick leave balance.

### **7.2.4 Personal Leave - Pay or Deduction at Separation**

Upon resignation, an employee will be paid for personal leave accumulated to the date of separation, not to exceed the maximum accumulations stated in this Article. An employee involuntarily separated without failure in performance of duties or personal conduct, will be paid for personal leave accumulated to the date of separation. For involuntary separation due to failure in performance of duties or personal conduct, accumulated personal leave may be withheld, given the circumstances of each employee's case, at the discretion of the County Manager.

At the time of an employee's separation, any personal leave owed the County will be deducted from the employee's final compensation.

### **7.2.5 Personal Leave - Pay upon Death**



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The estate of an employee who dies while working for the County will be entitled to payment for all of the accumulated personal leave credited to the employee's account.

### 7.3 Sick Leave

Sick leave with pay is not a right which an employee may demand but a privilege granted by the Board of County Commissioners. Sick leave may be granted to an employee absent from work for any of the following reasons: personal sickness or bodily injury; doctor's office visits; prescribed diagnostic testing, lab work or medical treatment; or exposure to a contagious disease when continuing to work might jeopardize the health of others.

An employee may also be granted sick leave to care for an immediate family who is ill and requires the employee's assistance. "Immediate family" will be deemed to include the father, mother, wife, husband, son, daughter, brother, sister, grandfather, grandmother, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandson, granddaughter, half-sister, half-brother, stepmother, stepfather, stepson, stepdaughter, stepsister, or stepbrother.

The County may require a health care provider's certificate concerning the nature of the medical condition and the employee's physical or mental capacity to resume duties. Where the leave is requested to care for an ill family member, the County may require certification from that family member's health care provider specifying the care the employee will provide.

For scheduled treatment, notification of the desire to take sick leave should be communicated to the employee's supervisor as soon as the treatment is scheduled. For unscheduled treatment, notification should be communicated as soon as possible prior to the leave or not later than thirty (30) minutes after the beginning of the scheduled work day, unless such procedures are otherwise dictated by departmental policy, as approved by the Chief Human Resources Officer.

#### 7.3.1 Sick Leave - Accrual

Regular (benefits-eligible) employees scheduled/budgeted to work the standard 2,080 hours per year shall accrue sick leave at the rate of 3.6923 hours per pay period, or 96 hours for each completed year of service.

Regular (benefits-eligible) employees scheduled/budgeted to work other than the standard 2,080 hours per year shall accrue sick leave at the rates indicated below:

- (1) Eligible part-time employees scheduled/budgeted to work a minimum of twenty (20) hours in a workweek shall accrue sick leave at a prorated amount based on their annual budgeted hours.
- (2) Fire Services personnel scheduled/budgeted to work 2,904 annual hours and 24-hour shifts shall accrue sick leave at a rate 39.62% higher than the standard accrual rate.
- (3) Regular (benefits-eligible) employees scheduled/budgeted to work 2,184 annual hours shall accrue sick leave at a rate 5.0% higher than the standard accrual rate.



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(4) Regular (benefits-eligible) employees scheduled/budgeted to work 2,340 annual hours shall accrue sick leave at a rate 12.50% higher than the standard accrual rate.

### **7.3.2 Sick Leave - Maximum Accumulation**

Sick leave will be cumulative for an indefinite period. For retirement purposes, all unused sick leave transforms into creditable service. For every 20 days of unused sick leave the retiring employee has, he or she receives one month of creditable service.

### **7.3.3 Sick Leave - Balance at Separation**

The balance of accumulated unused sick leave shall not be paid to the employee, as it is a privilege and not earned, upon separation. However, a record of the balance will be maintained to restore credits should an employee return to employment with the County.

### **7.3.4 Sick Leave - Restoration Upon Re-employment**

Sick leave accumulated during prior employment with the County may be credited to a returning employee's sick leave balance. Initially, the number of unused prior sick leave hours up to the maximum of sick leave the employee would earn in a year under the New Hanover County Personnel Policy will be credited to the employee's sick leave balance.

Upon completion of five (5) years of service to New Hanover County, the remaining balance of prior sick leave will be transferred to the employee's sick leave account.

### **7.3.5 Sick Leave - Transfer of Sick Leave from Another Employer**

Sick leave accumulated during prior employment may be transferred to a new employee's sick leave balance upon employment with New Hanover County, subject to the following conditions:

- a. The new employee must be an active enrollee in a state or local government employees' retirement system under the umbrella of the North Carolina State Treasury Department.
- b. The new employee must provide the New Hanover County Human Resources Department with a certified accounting from his/her previous state or local government employer of the sick leave balance which was available for the employee's use at the time of termination and for which the employee received no recompense.
- c. Upon employment, New Hanover County will transfer up to the maximum of sick leave the employee would earn in a year under the New Hanover County Personnel Policy to the employee's sick leave balance.
- d. Upon completion of five (5) years of service to New Hanover County, the remaining balance of prior sick leave will be transferred to the employee's sick leave account.

## **7.4 Sick Leave Bank - Purpose and Applicability**





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The purpose of this policy is to provide needed additional sick leave to employees due to a personal catastrophic illness or the catastrophic illness of an immediate family member. This policy covers all regular (benefits-eligible) employees who have successfully completed the introductory period, who meet all of the eligibility criteria as described below, and who participate in the sick leave bank program by contributing the required personal leave to the bank. Participation in the sick leave bank program is voluntary.

“Immediate family member” includes the employee’s father, mother, wife, husband, son, daughter, brother, sister, grandfather, grandmother, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandson, granddaughter, half-sister, half-brother, stepmother, stepfather, stepson, stepdaughter, stepsister, or stepbrother.

### **7.4.1 Sick Leave Bank - Policy**

This policy establishes a bank of available sick leave hours, voluntarily contributed to, or “deposited” by, employees on an annual basis. Eligible employees may request sick leave from this sick leave bank in certain catastrophic situations. A catastrophic situation exists when a serious health condition of the employee or a member of the employee’s immediate family requires the care of a physician for a prolonged period of time and forces the employee to exhaust all accrued personal and sick leave. To be eligible, employees must have deposited leave to the bank during the enrollment period of the same plan year as when they request to withdraw leave; they must have exhausted all accrued personal and sick leave; and they must have an approved catastrophic situation which prevents them from returning to work. This policy does not apply to job-related illnesses or injuries.

### **7.4.2 Sick Leave Bank Procedures - Enrollment**

- a. Only regular (benefits-eligible) employees who have successfully completed the introductory period may participate.
- b. Only employees with a minimum balance of 80 hours of personal and sick leave combined as of the beginning date of the new benefit plan year may participate. If an employee enrolls during the enrollment period, but does not have the minimum leave balance required at the beginning date of the new plan year, no personal leave will be taken from the employee’s personal leave balance to deposit into the bank and the employee will not be considered a participant.
- c. Full-time employees must deposit at least eight (8) hours of personal leave in the bank. Part-time employees must deposit personal leave in the bank in the amount of a prorated number of hours based on their position FTE status. For example, an employee in a 50% FTE position must deposit at least four (4) personal leave hours in the bank.
- d. Employees who wish to participate in the sick leave bank program must deposit to the bank during the open enrollment period established for each plan year.



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- e. An additional enrollment process may be conducted when the number of hours in the bank is insufficient to fulfill a request.
- f. Employees who enroll during the annual open enrollment period or who enroll during a subsequent enrollment period will remain eligible until the end of the plan year.
- g. Deposited leave is not refundable.
- h. To allow reserves to be built, at the end of the benefit year, the balance of unused sick leave may be carried over to the next year.
- i. No unused leave will be returned to employees.

### 7.4.3 Sick Leave Bank Procedures - Withdrawal

- a. When an employee has a catastrophic situation as defined above, he or she may request sick leave from the bank by submitting a completed *Leave Request Form* and supporting medical certification to his or her supervisor or department director, who will process it through to the Chief Human Resources Officer or his designee.
- b. It is the employee's responsibility to submit timely requests with required supporting medical documentation. Employees are advised to apply for leave at least two (2) weeks prior to the exhaustion of all leave. Individual circumstances will be examined for timeliness of request, but generally retroactive requests will not be approved.
- c. The submitted form must be complete and include the physician's certification that the employee is required to be absent from work for the specified period.
- d. Each request must be in increments of whole days.
- e. Intermittent leave, i.e., an hour or day here or there, is not an acceptable use and will not be approved.
- f. The maximum number of hours granted to a full-time employee within a plan year is 240. The maximum number of hours granted to a part-time employee within a plan year will be a prorated amount, based on the employee's position FTE.
- g. Leave will not be granted to employees for the period of time they receive short-term or long-term disability benefits. Leave may be granted for the disability benefit waiting period (provided they have no leave balances to otherwise the absence). The Chief Human Resources Officer or his designee will consult with the employee's department head, and will review the employee's file to determine if the employee is eligible to receive the requested leave.
- h. The Chief Human Resources Officer or his designee will review the employee's attendance records to determine if a history of excessive leave usage is documented. FMLA leave will not be considered as excessive leave usage.
- i. The Chief Human Resources Officer or his designee will notify the employee and the employee's department head of the determination within five (5) business days of receipt of the request.
- j. Employees do not have the right to appeal the Chief Human Resources Officer's, or his designee's, determination.
- k. When a request for sick leave bank hours is granted, the Human Resources Department will credit the approved number of hours to the employee's sick leave account for the employee's approved use.



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- I. The Human Resources Department will monitor the usage of credited hours in the employee's sick leave account and reserves the right to debit the account if abuse is determined.
- m. Credited hours in the employee's sick leave account not withdrawn for approved use will be returned to the bank rather than remain in the employee's sick leave account.
- n. Withdrawn days will be counted towards the employee's FMLA entitlement if the period of absence qualifies as FMLA leave.
- o. In cases of demonstrated abuse of sick leave privileges, the County may require a health care provider's certificate verifying that an employee's absence was due to illness for each occasion on which an employee uses sick leave or personal leave for reasons of sickness.
- p. A supervisor or department head desiring a health care provider's certificate from an employee shall notify that individual of the requirement and specify that all such certifications are to be submitted to the Human Resources Department.
- q. Information received in the Human Resources Department will be reported to the concerned supervisor or department on a strict need-to-know basis.
- r. Medical certifications of an employee's ability to resume duties following an extended absence shall be in accordance with the Family and Medical Leave Act (FMLA) and the FMLA provisions in this policy.

### **7.5 Leave of Absence Without Pay**

A regular (benefits-eligible) employee may be granted a leave of absence without pay for up to six (6) months by the County Manager or his designee (which may include and run concurrently with up to twelve weeks of approved FMLA leave). The leave will be used for reasons of personal or family disability, continuation of education, or special work that will permit the County to benefit by the experience gained or the work performed, or such other reasons for which the County Manager or his designee deems appropriate. Leave without pay outside of approved FMLA leave is not an entitlement, and consideration of granting such requests include but are not limited to the effect that the requested length of absence will have on the needs and operations of the department and/or area of employee assignment.

Employees shall be granted a military leave of absence without pay to serve in the military, for a longer period of time if needed, in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) and the Military Leave section of this Article.

#### **7.5.1 Leave Without Pay and Paid Leave Use Rule**

An employee may alternate leave without pay with working time, but no employee will be permitted to rotate between leave without pay status and a paid leave status.

#### **7.5.2 Leave of Absence Without Pay - Rules and Procedures**

- a. The employee will apply in writing to the supervisor for leave without pay.



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- b. The employee is obligated to return to duty within or at the end of the time determined appropriate by the County Manager or his designee.
- c. If the employee decides not to return to work, he should notify his supervisor immediately.
- d. If the employee returns to work from leave without pay and within 30 days must be placed back on leave for the same reason, any leave without pay time will be continuous from the prior leave without pay period and counted toward the six (6) month maximum. If the employee is placed on leave 30 days following a return to work, any leave without pay that results will begin a new period.
- e. 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 a comparable position.
- f. Failure to report at the expiration of leave of absence will be considered a resignation by the employee.

### **7.5.3 Leave of Absence Without Pay - Retention and Continuation of Benefits**

An employee transferring from an active pay status to leave without pay, shall become ineligible to accrue leave credits and benefit from County paid insurance premiums in accordance with the following provisions:

#### *A. Leave Credits*

Employees transferring from an active pay status to any leave without pay status shall become ineligible to accrue leave credits beginning the first pay period in which they perform no work or have no paid leave. Employees returning to an active pay status from a leave without pay shall begin to accrue leave credits in the first pay period in which they work or have paid leave. Employees will retain unused personal and sick leave balances while on leave without pay.

#### *B. Insurance Premiums*

Employees transferring from active pay status to leave without pay status under the FMLA, other approved medical leave, Workers' Compensation, or Military Leave may continue to benefit from County-paid and non-County-paid insurance premiums for the duration of the leave up to six (6) months, so long as they timely pay the employee portion of the premiums for which they are responsible.

Employees transferring to a leave without pay status for any other reason shall become ineligible to benefit from County-paid insurance premiums beginning the first pay period in which they perform no work or receive no pay. They shall be responsible for the timely payment of the total premium for any insurance programs they wish to continue. The same rules shall apply to these employees as they return to work from leave without pay status.



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Failure to pay the employee portion or total premiums, whichever is applicable, may result in cancellation of coverage. County contributions or payments toward unpaid premiums up to the date of cancellation shall be recovered.

### *C. Retention of Leave*

An employee will retain all unused personal and sick leave while on leave without pay.

#### **7.5.4 Use of Personal and Sick Leave Prior to Leave Without Pay**

An employee may use personal leave before going on leave without pay and continue to be in a leave accruing capacity, be eligible to take sick leave, be entitled to holiday pay, be eligible for merit increases or salary adjustments, and be eligible to receive the benefits offered under the County's group insurance policies while exhausting personal leave. If an employee desires to go on leave without pay for reasons of personal disability, the employee may be permitted to use accumulated sick leave first, except when drawing Workers' Compensation payments. A physician will indicate in writing when the period of disability actually begins and ends. An employee in the process of using accumulated sick leave will continue to be in a leave earning capacity, be entitled to holiday pay, be eligible for merit increases or salary adjustments, and be eligible to receive the benefits offered under the County's group insurance policies.

#### **7.5.5 Leave of Absence Without Pay - Failure to Return to Work**

An employee who will not be returning to work at the conclusion of an approved leave without pay period must notify the supervisor in writing as soon as practicable. In the absence of written notification, failure to return from leave shall be interpreted as a resignation.

If applicable, any benefit entitlements based upon length of service shall be calculated as of the employee's last paid day. County costs of any payments made to maintain the employee's health, dental or long-term disability benefit coverage during the leave of absence period shall be recovered if an employee fails to return to work at the end of his/her approved leave without pay period, unless the reason the employee does not return is due to the serious health condition of the employee or a family member or other circumstances beyond the employee's control. The Chief Human Resources Officer or designee may request certification of the reasons for the employee's failure to return to work.

#### **7.6 Workers' Compensation Leave**

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

- a. For the first seven (7) calendar days of absence from work due to the injury or illness, employees have two leave options: They may either use approved sick or personal leave or they make take leave without pay.



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

*Under the Act, employees are not compensated for the first seven (7) calendar days of the absence, unless the expected duration of the absence is twenty-one (21) or more calendar days. If the duration turns into twenty-one (21) or more calendar days, they receive retroactive Workers' Compensation benefits for the first seven (7) calendar days.*

### **7.7 Maternity Leave**

In accordance with the County's policy on equal employment opportunity and applicable federal, state and local laws, female employees will not be penalized in employment because they require time away from work caused by or contributed to by pregnancy, miscarriage, abortion, childbirth, or recovery. Their absence for the period of disability is to be treated as an absence for any other temporary disability. If the employee desires leave before or after the period of disability, she may request approval of personal leave or leave without pay or paid parental leave, when applicable.

### **7.8 Military Leave - Policy**

In accordance with federal and state laws, the County provides military leave to employees who are members of the uniformed services for absences to perform military duty, whether voluntary or involuntary. Absences to perform any military duty (including active duty, active duty training, inactive duty training such as scheduled drills and summer camp, full-time National Guard federal



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duty, fitness-for-duty examination, and funeral honors duty) are covered by this policy, unless the employee reaches the five-year maximum of military leave as established by the Uniformed Services Employment and Reemployment Rights Act (USERRA). This policy provides military leave to regular, casual part-time and temporary County employees unless their employment is for a brief, non-recurrent period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period.

### **7.8.1 Military Leave - Procedures**

Employees should submit a request for military leave to the supervisor or department head as soon in advance of the military duty as possible. The request should be in writing and should be accompanied by a copy of the military orders. Employees must report back to work as soon after military duty as possible, consistent with federal and state laws. If the reason for the employee's delay is not related to military duties, the employee is subject to the personnel policies and practices normally applied to employees with unexcused absences.

### **7.8.2 Military Leave - Paid Military Leave and Military Pay Differential Policy**

Regular (benefits-eligible) employees will be eligible for paid military leave and may additionally choose whether to use military leave (leave without pay), accrued personal leave (leave with pay), or some combination thereof for these absences. For certain periods of military duty, employees choosing to use military leave without pay may receive a pay differential to make up the difference between their regular County wage and military pay received during the period of military leave. The following guidelines outline the County's paid military leave and differential pay practice for regular employees using military leave:

- a. For absences during regularly scheduled work hours due to training (active duty training, inactive duty training such as scheduled drills and summer camp), fitness-for-duty examination or funeral honors duty, the employee may claim up to ten (10) days of paid military leave per calendar year, which will not carry over from year to year. The employee may claim an additional ten (10) days of differential pay per calendar year for such further absences, provided the days are recorded as military leave and the military basic pay is less than the employee's regular County pay.
- b. For periods of active duty, other than for purposes of training, fitness-for-duty examination or funeral honors duty, the employee may receive differential pay for a maximum period of six (6) consecutive months per calendar year, provided the days are recorded as military leave and the military basic pay is less than the employee's regular County pay.
- c. To claim differential pay, the employee must submit a copy of his/her military orders, pay vouchers, and other appropriate documentation evidencing performance and compensation pertinent to the military duty.



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Regular (benefits-eligible) employees choosing to use personal leave (paid leave) rather than military leave for the period of military duty will not receive differential pay.

### **7.8.3 Military Leave - Personal and Sick Leave Balance Intact Until Return**

During the period of military leave, regular (benefits-eligible) employees may continue health and dental insurance coverage up to one year, provided they continue to pay their share of the premiums. As with any other unpaid leave, employees do not accrue personal leave or sick leave during the period of leave without pay. However, the balance of such accruals on the date of commencement of the military leave will remain intact for the employee's return to work.

### **7.8.4 Military Leave - Return to Employment**

Regular (benefits-eligible) employees returning from military leave are entitled to return to the position they would have had, had they remained continuously employed, with such seniority, status, and pay, as they would have had and they shall be entitled to participate in insurance and other benefits offered by the County pursuant to established rules and practices pertinent to other types of leaves of absence. However, if employees are on leave 91 days or more or if they receive a disability in military service which renders them unable to perform the functions of the position they would have had, had they remained continuously employed, they may be offered a position of equivalent seniority, status and pay, provided they meet the qualifications for the equivalent position, in lieu of the position they would have had. If employees cannot become qualified for the position they would have had, they may be placed in their pre-service position so long as they are qualified for the job or could become qualified. If they cannot become qualified for the pre-service position, they may be placed in any other position of lesser status and pay for which they are qualified.

An employee's entitlement to the provisions of this section terminates upon the occurrence of any of the following events:

- a. Such employee is separated from uniformed service with a dishonorable or bad conduct discharge;
- b. Such employee is separated from uniformed service under other than honorable conditions, as characterized pursuant to regulations prescribed by the Secretary concerned;
- c. The County's circumstances have so changed as to make such re-employment impossible or unreasonable; or
- d. Such employee gives clear written notice s/he has no intention of returning to work.

## **7.9 Civil Leave**

All county employees called for jury duty or as a witness in any civil or criminal legal proceeding will be entitled to leave with pay for such duty during the required absence. An employee may





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keep fees and travel allowances received for jury or witness duty in addition to his/her regular compensation. While on civil leave, benefits and leave will accrue as though on regular duty. This policy shall not apply in private court actions unrelated to the County, involving the employee directly as a plaintiff or defendant.

### **7.9.1 Attending Court in Connection with Duties is Not Civil Leave**

When a county employee attends court in connection with his/her official duties, no leave is required. All time spent in court and in travel to and from home, or place of work to court will be considered working time. Employees must turn over to New Hanover County any witness fees or travel allowances awarded by the court for court appearance in connection with their official duties. The county compensates employees for travel, room, board, and special expenses incurred while serving as witnesses in connection with their duties. Travel out-of-town will be compensated in accordance with the Fair Labor Standards Act (FLSA).

### **7.10 Administrative Leave - Purpose and Applicability**

There are times when the County Manager may deem it inadvisable for employees to report to work or for County offices to be open, such as inclement weather, an emergency situation, or a loss of power or some other environmental concern. The purpose of administrative leave is to provide wage or personal leave replacement for employees unable to work because the County offices are closed. This leave applies to all eligible employees. “Eligible” employees refer to regular (benefits-eligible) employees who would not normally be required to report to work when their offices are closed due to declared periods of administrative leave.

The County Manager may authorize the use of administrative leave for other special purposes as deemed appropriate. The following policy relates to the use of it during emergency closings.

#### **7.10.1 Administrative Leave - Policy**

The County Manager may declare periods of administrative leave during which eligible employees may receive administrative leave pay for any time they were unable to work during their regularly scheduled work hours due to the closing. Administrative leave may be designated for full days or partial days and for selected or all County offices, depending on the circumstances. Unless deemed ineligible for administrative leave pay, employees shall not be required to charge the use of personal leave or take leave-without-pay for lost work time.

Administrative leave covers only the employee’s regular hours of work on those days the employee is scheduled to work. It does not cover the periods of unscheduled or overtime work performed in relation to an emergency. Where work is performed in response to an emergency by an employee who is eligible for administrative leave during declared administrative leave period(s), the employee shall be granted an amount of paid leave



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that is equal to such hours worked. The leave must be used within 90 days from when it is granted or by the end of the fiscal year, whichever is greater. The leave will not be paid out upon termination or change to a status that makes the employee ineligible for paid leave.

Every employee eligible for administrative leave who would otherwise be in an “at work” status when administrative leave is declared may receive the benefit of that leave. However, employees in an approved leave status (sick, personal, leave without pay) that is scheduled to last the duration of the administrative leave shall not be eligible for administrative leave. When the pre-approved leave is scheduled to end prior to the end of administrative leave, the employee shall be eligible for that leave on the date they are scheduled to return to work. Employees in an unapproved leave status immediately preceding, during or immediately following the declared administrative leave period shall not be eligible for administrative leave pay.

Employees directed by official notice to evacuate their homes are entitled to administrative leave prior to the official start of the declared administrative leave period. Administrative leave for these employees will begin at the point the evacuation order is issued and upon notification to appropriate supervisory personnel. If the evacuation is completed before administrative leave begins, the employee should report back to work or request to use personal leave.

Administrative leave for eligible employees required to work the first emergency shift may begin prior to the official start of administrative leave, at the discretion of the County Manager. This will allow those employees time to prepare for the emergency and rest prior to reporting for their shift.

Employees returning home at the end of a shift to sleep before reporting for their next shift are not entitled to administrative leave between shifts.

Administrative leave does not count as hours worked for overtime purposes.

### **7.11 Education Leave**

Employees may be granted personal leave or leave-without-pay during regular working hours or may be allowed to work a flexible work schedule to attend courses of study which will benefit the employee and the County, with prior approval of their department head. Employees may be granted an extended leave of absence without pay to further their education in a way that will benefit the employee and County. The educational leave of absence without pay will not exceed six (6) months. When in an educational leave of absence, employees may continue their group health and dental insurance coverage so long as they make timely payments, but they will be responsible for the total monthly costs (both employer and employee shares).

### **7.12 Bereavement (Funeral) Leave -Purpose and Applicability**



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The County understands the deep impact that a death in the family can have upon an employee and the need for time to grieve, make arrangements for and attend funeral or memorial services. This policy of providing paid leave for this purpose applies to regular (benefits-eligible) employees.

### **7.12.1 Bereavement (Funeral) Leave -Policy**

Regular (benefits-eligible) employees may receive up to three (3) days of paid bereavement (funeral) leave upon the death of a member of the employee's immediate family. "Immediate family" includes the employee's father, mother, wife, husband, son, daughter, brother, sister, grandfather, grandmother, great grandfather, great grandmother, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandfather-in-law, grandmother-in-law, great grandfather-in-law, great grandmother-in-law, grandson, granddaughter, half-sister, half-brother, stepmother, stepfather, stepson, stepdaughter, stepsister, or stepbrother.

The paid time-off will be prorated for regular (benefits-eligible) part-time employees. If an employee requests additional time off, the supervisor may approve it as personal leave or an authorized leave without pay. Temporary employees may request and be approved for authorized leave without pay for this purpose.

If an employee is incapacitated due to bereavement and unable to work, he or she may request sick leave in conjunction with the bereavement leave. The County may require a doctor's certification.

An employee should submit notification of the desire to take this leave to his/her supervisor prior to taking the leave. The employee's supervisor should confirm that the time is recorded accurately on the timesheets. The supervisor may require verification of the need for the leave.

This leave is non-cumulative and an employee will not be paid for this leave upon termination.

### **7.13 Community Services Leave - Purpose and Applicability**

The purpose of the Community Services Leave program is to encourage employees to become more involved in supporting student education and community service in New Hanover County or in the employee's current county of residence by providing a few hours of paid leave to them so they may, on occasion, participate in these activities during normal working hours. Only employees budgeted in regular (benefits-eligible) positions as of January 1 of each year are eligible to participate in this program.

#### **7.13.1 Community Services Leave - Policy**



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Eligible full-time employees may be paid for up to eight (8) hours of Community Services Leave between January 1 and December 31 of each calendar year. Employees budgeted on a part-time basis will have their leave prorated based on the number of hours for which the position has been budgeted. Leave must be used for participation in school activities with their children or in volunteering their services to their community during normal working hours.

### **7.13.2 Community Services Leave - Procedures**

All leave requests must be approved by the supervisor prior to the employee taking such leave. Examples of acceptable services under this policy would include, but not be limited to: attending teacher-parent conferences; attending school assemblies; attending school special events; participating in an established program as either a tutor or mentor; volunteering for special projects in a United Way Agency or other community based program; and participating in other activities that serve, promote and enhance the community.

In tracking the number of hours of leave an employee is paid each calendar year, the system will use the date of the pay check containing paid community services leave as the date of use. For example, if an employee performs two hours of community service during the last week of the calendar year and is paid that leave in a paycheck in January of the new calendar year, the leave will count against the number of hours allowed in the new calendar year.

No leave balance will be carried over to subsequent years. Community Services Leave is noncumulative and an employee will not be paid for any outstanding balance of this leave upon termination.

### **7.14 Family & Medical Leave - Purpose and Applicability**

The purpose of this policy is to ensure family and medical leave is provided in compliance with the Family and Medical Leave Act (FMLA), which entitles eligible employees up to 12 weeks of unpaid leave in a 12-month period for certain family and health condition reasons, with preexisting health insurance coverage being maintained during the leave and reinstatement to the same or an equivalent position when the leave is concluded.

This policy applies to “eligible employees” as defined by the FMLA: An employee who has been employed with the County for at least 12 months (not necessarily consecutive) and who has worked a minimum of 1,250 hours during the 12-month period immediately preceding the start of the leave.

#### **7.14.1 Family & Medical Leave Act (FMLA) - Qualifying Reasons for Use**

Employees are entitled to take FMLA leave for the following reasons:



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- a. To care for the employee's child after birth or placement for adoption or foster care, within 12 months of the birth or placement;
- b. To care for the employee's spouse, child or parent who has a serious health condition;
- c. To take medical leave when the employee is unable to work because of a serious health condition;
- d. Due to "any qualifying exigency" arising out of the fact that the employee's spouse, parent or child is on active military duty or has been notified of an impending call to active duty status in support of a contingency operation.
- e. To care for the employee's spouse, parent or child who is a covered service member and is recovering from a serious illness or injury sustained in the line of duty (Up to 26 weeks in a single 12-month period is allowed for this reason).

### 7.14.2 FMLA - Entitlement and Options

Under the FMLA, eligible employees are entitled to up to 12 workweeks of unpaid leave. This policy gives eligible employees the option of using paid personal or sick leave, as appropriate, as well as unpaid leave, against the FMLA leave entitlement. Any use of leave as FMLA-designated leave, paid or unpaid, within the applicable 12-month period shall be deducted from the employee's FMLA leave entitlement. The method used in determining the 12-month period in which the employee is entitled to this leave is the "rolling year" measured backward from the date an employee uses any FMLA leave. Under this method, each time an employee takes FMLA leave, the remaining leave entitlement would be any balance of the 12 weeks that has not been used during the immediately preceding 12 months.

Sick leave taken on an FMLA basis must be for the employee's own disability due to a serious health condition or to care for the employee's spouse, child or parent who has a serious health condition. Personal leave or unpaid leave may be used for any of the "qualifying reasons" listed above.

Any Workers' Compensation-related leave designated as FMLA leave within the applicable 12-month period shall be deducted from the FMLA leave entitlement.

A husband and wife who are both County employees and eligible for FMLA leave are limited to a combined total of 12 workweeks of FMLA leave during the applicable 12-month period for the birth or placement of a child for adoption or foster care, the care of the child after birth or placement, or for the care of a parent with a serious health condition. Any period of disability before or after the birth of a child would not be subject to the combined limit.

FMLA leave does not have to be taken as a continuous 12-week leave. An employee may request intermittent time off or a reduced work schedule in cases of a serious health condition of the employee or immediate family member, when medically necessary.



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Leave for the birth, adoption or foster care of a child does not qualify for an intermittent or reduced schedule leave unless the supervisor and employee agree otherwise.

Intermittent leave is taken in separate blocks of time because of a single illness or injury and may include leave for periods from an hour or more to several weeks. Examples of intermittent leave include leave taken on an occasional basis for medical appointments or leave taken several days at a time spread over a period of months, such as for chemotherapy. A reduced work schedule leave is a leave schedule that reduces an employee's usual number of hours per work week or work day, generally from full-time to part-time.

In those situations, where intermittent leave or a reduced work schedule leave is approved, the hours missed from the employee's usual workweek will be charged against the FMLA 12-week entitlement on a pro rata basis. Intermittent leave example: If an employee who normally works five days a week takes off one day, the employee would have used 1/5 of a week of FMLA leave. Reduced work schedule leave examples: An employee who works half-days on a reduced schedule will have used 1/2 of a FMLA leave week; an employee who normally works 30 hours/week, but works a reduced schedule of 20 hours/week will have used 1/3 of a FMLA week.

After consultation with the Chief Human Resources Officer or designee, a department head may temporarily reassign an employee on an intermittent or reduced work schedule leave to an alternative position which better accommodates the recurring periods of leave.

The County may discipline or dismiss an employee on an intermittent or reduced work schedule leave for poor performance or for excessive absenteeism unrelated to the basis for the FMLA leave.

A reduced work schedule which does not make use of any paid leave to make up the difference between the regular schedule and the temporary reduced work schedule may result in a pro rata reduction in the employee's paid leave accrual and benefits.

Exempt employees who use unpaid FMLA leave on an intermittent or reduced work schedule basis will have their salary reduced according to the hours of leave without pay used, without compromising their exempt status under the Fair Labor Standards Act.

### **7.14.3 FMLA - Continuation of Benefits**

Employees may retain coverage under the County's group health and dental insurance plans for the duration of FMLA leave. The County will continue to pay the employer portion of these insurance premiums. Employees using paid FMLA leave will continue to have their portion of the insurance premiums payroll-deducted. Employees using unpaid FMLA leave are responsible for payment of the employee portion of the insurance



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premiums under the same conditions which apply to employees in other types of leave without pay.

Disability insurance premiums under the County's group long-term disability plan shall be maintained by the County for employees on unpaid FMLA leave under the same conditions as exist for employees on other unpaid leave.

Continuation of retirement contributions is not mandated by the FMLA. All terms and conditions relevant to participation in the retirement system shall be in accordance with the rules established by the N. C. Local Governmental Employees' Retirement System or the N. C. Law Enforcement Officers' Retirement Fund.

Continuation of employee financed elective insurance benefits shall be pursuant to agreements between the employee and the respective benefit provider.

Personal and sick leave accruals and retirement service credit will continue during any period of paid leave. However, no leave or retirement service credit will accrue during any period of leave without pay.

#### **7.14.4 FMLA - Job Protection**

Employees returning to work at the conclusion of FMLA leave will be restored to their former position, or one with similar pay, benefits and terms and conditions of employment they enjoyed prior to the FMLA leave.

If there are reductions in force while the employee is on FMLA leave, and the employee would have lost his/her position if not on leave, except as provided under the reduction in force policy on reinstatement, there is no obligation to restore the employee to his/her former or equivalent position.

#### **7.14.5 FMLA - Employee Responsibility**

Regardless of the reason for the FMLA leave or whether leave is paid or unpaid, the employee is responsible for properly requesting and using FMLA leave as follows:

- a. Inform supervisor as soon as practicable of intent to use FMLA leave.
- b. Discuss plans with supervisor to assure department operations are not unduly disrupted, if possible.
- c. Provide information about the reasons for paid leave (including personal leave) which is sufficient for a determination of whether the paid leave would qualify as a deduction against the 12-week entitlement under the FMLA.
- d. Submit a completed New Hanover County Leave Request form to supervisor as soon as practicable before taking the leave, considering the facts of the case.
- e. Provide the appropriate medical certification (or legal certification of adoption or foster child placement) as soon as practicable before taking the leave, considering the



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- facts of the case, but no longer than 15 days after receipt of FMLA leave information packet.
- f. Continue to timely pay premiums on health and dental insurance and optional benefits programs, if continued coverage during the leave is desired.
  - g. Provide periodic reports to supervisor, as instructed, regarding intent to return to work.
  - h. Provide reasonable notice of a need to extend FMLA leave beyond the planned conclusion of such leave.
  - i. Provide a fitness for duty certification prior to return to work, including limitations, if any, as required.

Leave Request Notice: It is expected that requests for leave are made well in advance of the leave; however, it is understood there will be some cases in which the request cannot be made in advance. Whether proper notice has been given will be decided on a case-by-case basis, following notice requirements prescribed in the FMLA. If the employee fails to give proper notice and has no reasonable excuse, the County may delay the leave. If the employee fails to provide notice that the leave was for FMLA reasons and to present medical certification to that effect within the prescribed time period, the employee may not be entitled to the protections of the FMLA and may be subject to disciplinary actions.

### **7.14.6 FMLA - County Responsibility**

It is the County's responsibility to designate leave as FMLA leave. This obligation supersedes an employee's desire not to use his or her FMLA entitlement. The key to designating FMLA leave is the qualifying reason(s), not the employee's decision or reluctance to use FMLA leave. The designation must be based on information obtained from the employee or an employee's representative. FMLA leave designation is a responsibility shared between the employee's department and the Human Resources Department, as follows:

The supervisor/department director has responsibility for the following:

- a. Receive notice of employee's intent to use FMLA leave, or;
- b. Absent notice of intent, when an employee is on paid leave, after a period of ten workdays, require the employee to provide sufficient information to establish whether the leave is for a
- c. FMLA-qualifying reason (unless the absence is known to be for a non-FMLA qualifying reason, e.g., vacation).
- d. Consult immediately with the Human Resources Department about the application of the FMLA to the circumstances presented.
- e. Upon receipt of employee's notice, give the employee the appropriate leave request forms and notice documents, with instruction to timely return completed forms.
- f. Clearly communicate to the employee what the department's expectations for the employee's continuing contact or notice regarding return to work.
- g. Keep the Human Resources Department informed of any developments.





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- h. Design intermittent or reduced work schedules if requested by the employee and if feasible.
- i. Work with the employee upon reinstatement to facilitate a smooth transition back into the work environment.

The Human Resources Department has responsibility for the following:

- a. Receive notice of intent or leave request, medical certification and supporting documentation.
- b. Absent notice of intent, review time and attendance reports to identify potential FMLA situations and make contact with department representative for follow-up.
- c. Designate leave as FMLA leave once it is confirmed that the leave is being taken for qualifying FMLA reason and give written notice of designation to employee in accordance with the FMLA deadlines for such notice.
- d. Notify, or ensure supervisor/department director notifies, employee of specific rights, including those relating to the continuation of benefits and reinstatement, as well as employee obligations and the consequences of a failure to meet these obligations.
- e. Advise supervisor/department director on the application of the FMLA regulations to the employee's situation.
- f. Maintain records of FMLA usage and remaining entitlement.
- g. Assist supervisor/department director on arrangements for intermittent or reduced schedule, when required.
- h. Maintain in various locations throughout the County organization posting about the FMLA.
- i. Maintain all records related to the employee's leave under FMLA (keeping all medical documentation separate from the employee's personnel file).
- j. Notify, or ensure insurance bill sent by Finance notifies, the employee facing cancellation of insurance coverage in writing at least fifteen (15) days before coverage is to cease.

### **7.14.7 FMLA - Provisional Designation**

Where leave must begin prior to confirmation of an FMLA-qualifying event, the leave will be provisionally designated and so communicated to the employee in writing. Upon receipt of the requested information or medical certification which confirms that the leave either is or is not for an FMLA reason, the provisional designation will either be withdrawn or made final by providing written notice to the employee.

### **7.14.8 FMLA - Retroactive Leave Designation**

FMLA leave can be designated retroactively in only two (2) instances: if the employee was absent for an FMLA reason and the supervisor did not learn of it until after the employee's return to work, provided the employee so notifies the supervisor within two (2) working days of the return to work, or if the supervisor has been provided information concerning



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the reason for the leave, but has been unable to confirm FMLA entitlement, provided a provisional designation of FMLA qualification has been communicated to the employee.

### **7.14.9 FMLA - Required Medical Certification**

For leave related to serious health conditions or child birth, the employee is required to provide medical certification(s) from the employee's or family member's qualified health care provider.

*"Qualified health care provider" may be any licensed physician, dentist, podiatrist, clinical psychologist or optometrist authorized to practice in North Carolina. In some cases, other health care providers may be recognized for the purpose of awarding leave under the FMLA.*

### **7.14.10 FMLA - Second and Third Medical Opinions**

The County may require a second medical opinion at the County's expense. In the case of conflicting opinions, the opinion of a third health care provider, agreed upon by both employee and the Chief Human Resources Officer or his designee and paid by the County, shall be final.

### **7.14.11 FMLA - Fitness for Duty/Return to Work Certification**

For some job classifications, the County may require the employee obtain a fitness-for-duty certification from the health care provider, at the employee's expense. If an employee fails to provide a requested such certification, reinstatement will be delayed until the employee complies. If the certification is not submitted within fifteen (15) calendar days of the request where practicable, reinstatement may be denied. The County reserves the right to have the employee examined by another health care provider, at the County's expense.

### **7.14.12 FMLA - Certification of Treatment Scheduling**

The employee must make reasonable efforts to schedule any medical treatments so as not to unduly disrupt the operations of the employee's department or work unit. During the course of the treatment and as the Chief Human Resources Officer or designee deems appropriate, the employee may be required to provide certification from the appropriate health care provider of the unavailability of treatment during non-work time, or at times that are less disruptive to the operations of the employee's unit.

### **7.14.13 FMLA - Family Relationship Certification**



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The County may require an employee to certify the family relationship if the need for leave is pursuant to the adoption, foster care placement, or birth of a child or to care for the employee's parent.

### **7.14.14 FMLA - Abuse**

The Chief Human Resources Officer or designee shall review, investigate and resolve suspected cases of bad faith, fraud or abuse of the FMLA leave program. Abuses of the FMLA leave program may result in, but are not limited to, revocation of the leave, refusal to restore the employee to his/her job; recovery of County costs for paid leave and insurance benefits, and disciplinary action up to and including dismissal.

Outside employment while on FMLA leave will be treated the same as when an employee is discovered to have outside employment while on any other paid or unpaid leave.

### **7.14.15 FMLA - Extension of Leave**

Employees may extend the date of return from FMLA leave to the extent they have FMLA leave entitlement available. A request for an extension must be accompanied by new appropriate medical or legal certification.

### **7.14.16 FMLA - Failure to Return to Work**

An employee who will not be returning to work at the conclusion of FMLA leave must notify the supervisor in writing as soon as practicable. In the absence of written notification, failure to return from leave shall be interpreted as a resignation.

If applicable, any benefit entitlements based upon length of service shall be calculated as of the employee's last paid day. County costs of any payments made to maintain the employee's health, dental or long-term disability benefit coverage when on unpaid FMLA leave shall be recovered if an employee fails to return to work at the end of his/her approved FMLA leave, or at the end of approved medical leave without pay under the County's leave without pay policy, whichever is later, unless the reason the employee does not return is due to the serious health condition of the employee or a family member or other circumstances beyond the employee's control. The Chief Human Resources Officer or designee may request certification of the reasons for the employee's failure to return to work.

## **7.15 Smallpox Vaccination Leave**

The following provisions apply to employees who suffer adverse medical reactions due to having had a work-related smallpox vaccination or having been exposed to an employee who has had a work-related smallpox vaccination, as covered by the Workers' Compensation Act. The County



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treats these employee injuries as any other workplace injury covered by the North Carolina Workers' Compensation Act with the following two exceptions:

- a. If the employee's absence is less than seven (7) workdays duration (the Worker's Compensation Act waiting period), the County will pay the employee for the absence without deducting from the employee's personal or sick leave accounts.
- b. For any period of Workers' Compensation leave, the County will pay a differential to make up the difference between the Workers' Compensation payment and the employee's regular pay.

After the first twenty-four (24) hours of absence, the County may require the employee to submit certification from a health care provider justifying the need for additional leave.

*Workers' Compensation Act, G. S. § 97-53 (29): "Infection with smallpox, infection with vaccinia, or any adverse medical reaction when the infection or adverse reaction is due to the employee receiving in employment vaccination against smallpox incident to the Administration of Smallpox Countermeasures by Health Professionals, section 304 of the Homeland Security Act (to be codified at 42 U. S. C. § 233), or when the infection or adverse medical reaction is due to the employee being exposed to another employee vaccinated as described in this subdivision."*

### **7.16 On-site Wellness Clinic Leave**

The County provides an on-site wellness clinic to eligible regular (benefits-eligible) employees. To encourage use of the facility (which positively impacts both employee health and medical insurance costs), employees are provided with a special leave for visits to the clinic.

### **7.17 Blood Donation Leave**

The County recognizes the need for an adequate blood supply, and to encourage participation in the County blood drives for the American Red Cross, the County provides paid leave for successful blood donation. For each successful donation, an employee is credited with four (4) hours of paid leave. Employees may not accrue more than 16 hours in a year. There is no maximum accumulation, but this leave will not be paid out at separation.

### **7.18 Other Leave**

As deemed appropriate by the County Manager, he or she may approve the use of special administrative leave in recognition of special achievements or for other uses.

### **7.19 Paid Parental Leave – Purpose and Applicability**

The purpose of this policy is to allow up to six (6) weeks of paid leave for regular (benefits-eligible) employees for the parental care of a newborn or a child placed for adoption, foster care, or guardianship within twelve (12) months of the qualifying event that occurs on or after the effective date of this policy. Paid parental leave addresses the lack of income experienced by



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many for the qualifying event that might not be provided under the Family & Medical Leave Act (FMLA) or another leave of absence available to employees.

This policy applies to full-time and part-time employees who have been in a regular (benefits-eligible) status for at least twelve (12) months and have completed their introductory period prior to the qualifying event as defined in this policy.

### 7.19.1 Paid Parental Leave – Policy

An employee may only receive paid parental leave for one qualifying event within a rolling 12-month period. The amount of paid leave for any one person shall not exceed six (6) workweeks in a rolling 12-month period. The total number of hours for the six (6) workweeks will be based on the employee's scheduled/budgeted hours per year. The maximum number of paid parental leave hours for eligible full-time employees scheduled to work the standard 2,080 hours per year (40 hours per week) will be 240 hours within a rolling 12-month period.

The maximum number of hours for eligible part-time employees will be prorated in accordance with the per cent of full-time equivalency (FTE) scheduled/budgeted to work. For example, the maximum number of hours for an eligible part-time employee scheduled/budgeted to work 80% of a full-time position (.80 FTE; 1,664 hours a year; 32 hours per week) will be eligible for 80% (192 hours) of the maximum number of hours in a rolling 12-month period.

Full-time employees scheduled/budgeted to work more than the standard 2,080 hours in a year and whose workday hours exceed the standard eight (8) hours will be eligible for prorated maximum number of hours, as in the examples below:

- The maximum number of paid parental leave hours for eligible full-time employees scheduled/budgeted to work 2,184 hours per year is 5.0% higher (252 hours) than those scheduled/budgeted to work 2,080 hours a year.
- The maximum number of paid parental leave hours for eligible full-time employees scheduled/budgeted to work 2,340 hours per year is 12.50% higher (270 hours) than those scheduled/budgeted to work 2,080 hours a year.
- The maximum number of paid parental leave hours for eligible full-time employees scheduled/budgeted to work 2,904 hours per year is 39.62% higher (335 hours) than those scheduled/budgeted to work 2,080 hours a year.

### 7.19.2 Paid Parental Leave – Eligibility

Full-time or part-time employees who have been in a regular (benefits-eligible) status for at least 12-months and have completed their introductory period prior to the qualifying event may request paid parental leave for any one of the qualifying events within 12 months of the qualifying event:



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- a. Birth of a child of the employee;
- b. The legal placement of a child with the employee for adoption, foster care, or guardianship;
- c. Placement of a child with the employee for whom the employee permanently assumes and discharges parental responsibilities (in loco parentis).

Employees may only be approved for paid parental leave for one qualifying event in a rolling 12-month period. The approved leave will only be allowed within twelve (12) months following the qualifying event and when the age of the child(ren) is under 18. The approved leave must be used concurrently with approved FMLA leave or another approved leave of absence for the qualifying event. For example, an employee approved for twelve (12) weeks of leave for a qualifying event defined in this policy must use paid parental leave during the 12-week period. They cannot return to work and request additional leave under this policy for the same qualifying event.

Paid parental leave may be denied or the approved amount may be less than the maximum amount allowed when its usage will continue a consecutive period of paid or unpaid leave and the total amount of leave for the entire period will exceed twelve (12) weeks. If an employee returns to work following an extended period of paid or unpaid leave and requests usage of paid parental leave within 30 days of the return, the leave will be considered as a continuation from the prior leave period and counted toward the twelve (12) weeks.

### **7.19.3 Paid Parental Leave – Amount of Leave**

Eligible employees may receive paid parental leave for one qualifying event within a rolling 12-month period. The amount of paid parental leave for any one person shall not exceed six (6) weeks in a rolling 12-month period in accordance with the maximum number of hours defined in this policy. All leave must be completed within 12 months of the qualifying event.

If both parents are employed by the county and both qualify for paid parental leave, they will be eligible for a combined total of the six (6) weeks of leave for one qualifying event within a 12-month period. The paid parental leave hours allowed for each parent will be based each employee's scheduled/budgeted work hours in accordance with this policy.

### **7.19.4 Paid Parental Leave – Documentation**

Requests for paid parental leave must include supporting documentation. Supporting documentation includes, but is not limited to the documentation submitted under FMLA (WH-380-E), or one of the following:

- Birth of a child: Certificate of live birth or similar government-issued document, listing the employee as the legal parent;



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- Legal placement of a child: Certified copy of a court order granting legal custody of the child to the requesting employee;
- In Loco Parentis: Notarized statement from the employee asserting that he or she is assuming and discharging the obligations of a parent to a child. The statement must include the age of the child, the degree to which the child is dependent on the employee, the amount of support, if any, provided by the employee, and the extent to which the employee exercises duties commonly associated with parenthood;
- Non-legal placement of a child: Two (2) official records establishing the employee as named caregiver to the child (i.e., school enrollment, insurance records, or medical records); and documentation establishing the date when the placement occurred (i.e., insurance records and certificates of death)

The request for paid parental leave and the supporting documentation should be provided at least 30 days prior to the birth, adoption or placement, if foreseeable or as soon as possible.

### **7.19.5 Paid Parental Leave – Usage**

Paid parental leave may only be used following the qualifying event. This includes waiting periods for any short-term disability benefits in which employees might have enrolled and after such benefits have been paid. Paid parental leave cannot be paid concurrently with short-term disability or any other leave.

Paid parental leave may run consecutively or intermittently. For example, if an employee uses only four (4) workweeks out of the six (6) provided under this policy for one (1) qualifying event, the employee (or the other parent employed by county who qualifies for the leave) may use the remaining two (2) workweeks for the same qualifying event within twelve (12) months following the event. When the request for leave is intermittent, the leave schedule must be approved by a supervisor. Paid parental leave shall run concurrently with an FMLA or other leave of absence for one of the qualifying events identified under this policy.

Once paid parental leave has been exhausted, an employee may use other accrued paid leave or leave without pay, in accordance with the county's leave policies.

### **7.19.6 Paid Parental Leave – Return to Work**

An employee must return to work for at least 60 days following the period of leave that included and/or exhausted any approved paid parental leave for a particular qualifying event. If an employee fails to return following their usage of paid parental leave, the value of the parental leave shall be recovered. The value of the paid parental leave will be deducted from the employee's final paycheck, including any annual leave to be paid out. When there is no final paycheck or when there is an amount owed after the



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deduction from a final paycheck, the county will use other means available to recover the value of the leave.

### **7.20 County Manager's Authority to Implement Leave Policy Changes**

For reasons of curtailment of work or lack of funds, the County Manager, in consultation with the Board of County Commissioners, may institute policy or rule changes to any paid leave policies, including but not limited to, the provision, accrual or use of personal leave, community services leave, civil leave, bereavement leave, or administrative leave or paid holidays. Such changes may be for as long as the County Manager deems necessary.





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### ARTICLE 8: PERFORMANCE, DISCIPLINE

#### 8.0 Performance Management - Purpose and Applicability

As the County policy is to award pay increases based on job performance, the Performance Management Process (PMP) was implemented to provide the structure for comprehensive, defensible, and consistently-applied performance evaluation of all regular (benefits-eligible) employees. Another value of the PMP is that, in some cases of performance deficiencies, it may provide opportunities for pre-disciplinary job performance coaching and corrective action through which disciplinary action may be avoided. The Sheriff, Register of Deeds, Board of County Commissioners, and Board of Elections may or may not elect to use the PMP and its tools in performance management and evaluation.

#### 8.1 Performance Management - Policy

The County administers a performance management process (PMP) encompassing a full cycle of work planning, performance monitoring and feedback throughout the job performance review period, and performance evaluation. Every regular (benefits-eligible) employee must receive a minimum of one performance evaluation in each fiscal year, regardless of whether or not merit funding is available. Casual part-time employees must also be evaluated under the PMP, at least once per fiscal year, in order to determine continued employment.

##### 8.1.1 Performance Management - Procedures

When the process is done in accordance with the PMP principles and guidelines, employees and their supervisors work together to establish performance expectations and how performance will be measured at the beginning of the performance review period and performance feedback is given throughout the review period so that there are no surprises at the time of the performance evaluation.

A supervisor may use the coaching methods provided in the PMP as an informal, early-on alternative to disciplinary action in some cases of job performance deficiencies. These coaching sessions should establish the corrective actions needed to meet expectations and the time frame for improvement, as well as the consequences for failure to meet the expectations, and they should be documented and maintained in the supervisor's file for the employee.

#### 8.2 Disciplinary Actions -Purpose and Applicability

An employee who does not respond to informal coaching efforts by the supervisor regarding performance or conduct deficiencies, or who is cited for a serious infraction, may be subject to more stringent actions by the supervisor. The action(s) taken can be to give a disciplinary warning or to suspend, reduce pay, demote or dismiss the employee if the nature and seriousness of the failure in work performance or personal conduct warrant such action. The County attempts to



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provide a uniform administration of disciplinary actions and guidelines. However, the following procedures are designed so as not to restrict operating personnel and, in no way, guarantee an employee a right to continued employment. This policy applies to all County employees, with the exception of elected officials. Regular (benefits-eligible) employees who have satisfactorily completed their introductory period have certain due process rights, as described in this policy.

### **8.2.1 Disciplinary Actions - Policy**

Normally, the more stringent disciplinary actions of suspension, salary reduction, demotion, or dismissal will be preceded by a warning. However, employees may be suspended, have their salary reduced, or be demoted or dismissed without prior warning or other disciplinary action having been given to the employee, if the nature and seriousness of the failure in work performance or personal conduct warrant it. Disciplinary actions must be documented using a Disciplinary Action Memo or a memorandum, and must be presented to the affected employee. Whether or not the employee signs the document, the supervisor should give the employee a copy and advise the employee of any applicable appeal rights.

### **8.2.2 Failure in Performance of Duties**

The following causes relating to failure in the performance of duties are representative of, but not limited to, those considered to be adequate grounds for disciplinary action, up to and including dismissal:

- a. Inefficiency, negligence or incompetence in the performance of duties;
- b. Careless, negligent or improper use of County property or equipment;
- c. Discourteous treatment of the public or other employees;
- d. Absence without approved leave;
- e. Habitual improper use of leave privileges;
- f. Habitual pattern of failure to report for duty at assigned time and place;
- g. Guilty of gross misconduct or conduct unbecoming to a public officer or employee;
- h. Participation in any action that would in any way seriously disrupt or disturb the normal operation of the agency, institution, department or any segment of local government;
- i. Trespassing on the home of any public official or employee for the purpose of harassing or forcing dialogue or discussion from the occupants;
- j. Willful damage or destruction of property;
- k. Willful acts that would endanger the lives and property of others;
- l. Possession of unauthorized firearms or lethal weapons on the job;
- m. Brutality in the performance of duties;
- n. Refusal to accept a reasonable and proper assignment authorized by a supervisor (insubordination);
- o. Acceptance of gifts in exchange for favors or influence;
- p. Releasing of confidential information to unauthorized persons;
- q. Engaging in incompatible employment or serving a conflicting interest;



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- r. Taking part in a political activity that is restricted by Article 6 of this personnel manual;
- s. Inappropriate usage of social media resources;
- t. Failure to report a motor vehicle citation or infraction or conviction or a criminal (misdemeanor/felony) charge or conviction by the first working day following the charge or conviction.
- u. Failure to obtain a certification, license, or educational/training program within the timeframe required for a position or as a condition of continued employment.
- v. Pattern of convictions for traffic offenses that impact the capacity to safely operate a vehicle or heavy piece of equipment to conduct county business, as required by the position.

### 8.2.3 Failure in Personal Conduct

An employee may be disciplined for causes relating to personal conduct detrimental to County service. The following causes related to failure in personal conduct are representative of but not limited to those considered to be adequate grounds for disciplinary action, up to and including dismissal:

- a. Fraud in securing appointment;
- b. Conviction of a felony or of a misdemeanor which would adversely affect performance of duties or the entry of a plea of "no contest" to either;
- c. Misuse of County funds;
- d. Falsification of County records for personal profit or to grant special privileges;
- e. Reporting to work under the influence of alcohol or narcotic drugs or partaking of such things while on duty or while on public property, except that prescribed medication may be taken within the limits set by a physician so long as medically necessary.

### 8.2.4 Disciplinary Warning

Disciplinary warnings shall be documented and shall set forth the points for which the employee has received the warning; the corrective action that must take place; the dates of any previous performance discussions with the employee; and any other pertinent information. A copy of the warning must be forwarded to the Human Resources Department by the department head to be filed in the employee's personnel folder. A warning may result from any kind or class of conduct related or unrelated, constituting failure in performance of duties or in personal conduct at any time during employment, and are not limited to those listed in this Article.

#### *Cumulative Disciplinary Warnings*

An employee who receives three (3) disciplinary warnings for failure in performance of duties and/or failure in personal conduct, during any consecutive three (3) year period shall receive by the department head a disciplinary action of one or a combination of the



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following: suspension, a salary reduction, demotion, or dismissal by the department head. The three (3) warnings may result from causes related or unrelated, constituting work and/or conduct that is unsatisfactory.

### **8.2.5 Disciplinary Suspension**

A suspension without pay for a pre-determined period of time may be used as the appropriate disciplinary measure to correct work performance or personal conduct deficiencies. A disciplinary suspension is documented as a disciplinary warning with the added disciplinary action of suspension without pay.

### **8.2.6 Disciplinary Salary Reduction**

A salary reduction without demotion or reclassification to a lower position classification may be used as the appropriate disciplinary measure to correct work performance or personal conduct deficiencies. The amount of reduction should be contingent on the severity of the offense or deficiency and is determined by the department head in consultation with the Chief Human Resources Officer. This disciplinary action is documented as a disciplinary warning with the added disciplinary action of a salary reduction.

### **8.2.7 Disciplinary Demotion**

A demotion to a lower position classification may be used as the appropriate disciplinary measure to correct work performance or personal conduct deficiencies. Employees demoted for disciplinary or performance-based reasons should expect to have their salary reduced, the amount of reduction contingent on the severity of the offense or deficiency and to be determined by the department head in consultation with the Chief Human Resources Officer. A proposed demotion which necessitates the reclassification of a position must be approved by the Chief Human Resources Officer and County Manager. The demotion will be documented as a warning with the added disciplinary action of demotion.

### **8.2.8 Dismissal**

#### *Failure in Performance of Duties*

An employee who continuously fails to achieve the performance levels established and communicated by the respective supervisor(s) faces the possibility of dismissal as the appropriate disciplinary action. Dismissal for performance deficiencies will normally be preceded by prior warning, but, in the case of a serious infraction, may result from one incident.

#### *Failure in Personal Conduct*



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Dismissal of an employee charged with failure in personal conduct may be preceded by prior warning, but, in the case of a serious infraction, may result from one incident.

### 8.2.9 Pre-dismissal Hearing

The following activities must precede dismissal of any County employee who is in a regular (benefits-eligible) position and has satisfactorily completed the introductory period:

1. The department head or designee shall provide the employee with a written notification of the date, time and place of a pre-dismissal hearing. The notification should include that dismissal is being considered as a disciplinary action and the proposed effective date.
2. If not included in the pre-dismissal hearing notification, at the pre-dismissal hearing the department head or designee must issue the employee a written notice of the charge(s) against the employee allow the employee to respond to the allegation(s). At this hearing, the employee may present any response to the charges or the proposed disciplinary action. The employee may not have a representative or attorney present at this hearing.
3. The department head will consider the employee's response, if any. Based on the results of the hearing, the department head, in consultation with the Chief Human Resources Officer, may elect to dismiss the employee as the appropriate disciplinary measure; impose less stringent disciplinary actions; suspend the employee without pay pending further investigation; suspend the employee with pay pending further investigation; or take no further actions against the employee.
4. The department head will notify the employee in writing of the determination within three (3) business days but not less than one (1) business day following the pre-dismissal hearing. The determination must be signed by the employee or sent to the employee's home address by certified, return receipt mail. The notice shall contain a statement of the reason(s) for the determination and the employee's appeal rights.
5. If the department head elects administrative suspension pending further investigation, pursuant to the results of further investigation and in consultation with the Chief Human Resources Officer, that department head may, within fifteen (15) working days following the pre-dismissal hearing: dismiss the employee as the appropriate disciplinary measure; impose other disciplinary actions, as deemed appropriate; or reinstate the employee and, if necessary, award back pay for any period of interim suspension without pay.



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### 8.2.10 Administrative Suspension

In some cases, it may be determined that the removal from the workplace of an employee would be in the best interest of the employer or the employee. Possible reasons include, but are not limited to, to avoid undue disruption of work, to protect the safety of persons or property, or for other serious reasons. Also, such a suspension may be used to provide time to investigate, establish facts, and reach a decision concerning an employee's status or it may be appropriately used to provide time to schedule and hold a pre-dismissal hearing. Administrative suspensions may be directed with or without pay as described below in Subsections (a) and (b) of this Section, but shall not be used for the purpose of delaying an administrative decision regarding the employee's work status pending the results of a civil or criminal court matter involving the employee.

#### (a) Administrative Suspension without Pay

The department head, in consultation with the Chief Human Resources Officer or designee, may suspend an employee without pay for a period not to exceed fifteen (15) working days (unless an extension is granted by the Chief Human Resources Officer) during the internal investigation of that employee on any presumed violations of established internal policies or procedures; provided that such violations may, if proven, form the basis for disciplinary action. Suspension without pay must be preceded by a review of available evidence and a determination that such evidence comprises sufficient grounds to suspend without pay, pending the results of further investigation. Sufficient grounds are defined as:

- Demonstrated evidence that the employee's presence and actions will cause undue disruption of work or pose a threat to the safety of persons or property; or
- The evidence compiled during a preliminary investigation, including that offered by the concerned employee, is substantial enough to assume that the results of further internal investigations will prove the employee's guilt.

#### (b) Administrative Suspension with Pay

The department head, in consultation with the Chief Human Resources Officer or designee, may suspend an employee with pay for a period not to exceed fifteen (15) working days (unless an extension is granted by the Chief Human Resources Officer), during the investigation of that employee on any presumed violations of established internal policies or procedures if the following conditions exist:

- Available evidence is not substantial enough to suspend without pay;
- The employee's presence in his/her usual work environment causes undue disruption of work or poses a threat to persons or property for reasons not attributable to any actions by that employee;



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- Efforts have been made to place the employee in another position for the duration of the investigation.

When an employee is in administrative suspension status, he or she is expected to be available to participate in any ongoing investigative activities and fully cooperate with the investigation. The employee may be expected to surrender all County property, as deemed necessary, during the period of suspension. Also, the employee shall not contact department employees during their working hours or disrupt department operations in any way. Non-cooperative or disruptive actions may subject the employee to disciplinary action.



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### ARTICLE 9: APPEALS AND GRIEVANCES

#### 9.0 Employee Appeal of Disciplinary Actions - Purpose and Applicability

The purpose of this policy is to ensure that corrective and disciplinary actions for performance or conduct deficiencies are consistent with the County disciplinary policy.

This policy applies to all regular (benefits-eligible) employees who have successfully completed the introductory period, with the following exceptions:

- Employees in the offices of the Sheriff and of the Register of Deeds, elected officials who by North Carolina General Statutes have full authority in personnel decisions involving employees in their respective departments;
- Any employees who are appointed by the County Commissioners whereas, in such appointments, the Board has full authority in personnel decisions over them; or
- The Elections Director who is appointed by the Board of Elections which has full authority over the position in personnel decisions.

#### 9.1 Employee Appeal of Disciplinary Actions - Policy

This policy provides a procedure whereby eligible employees, who are non-department heads or who do not report directly to the County Manager in their day-to-day operations, may be heard and disciplinary actions may be reviewed for validity and consistent application of applicable County policies.

*For purposes of this policy, the term “business days” refers to weekdays on which the County is open for regular business. Exceptions are weekend days, County holidays or other weekdays County offices are deemed “closed” for regular business.*

##### 9.1.1 Appeal of Suspension, Salary Reduction, Demotion or Dismissal

An eligible employee who wishes to appeal a suspension, salary reduction, demotion or dismissal may, within five (5) business days after the disciplinary action and after notifying his/her department head in writing of his/her intentions, appeal the action in writing to the Chief Human Resources Officer. If the employee is a department head, he/she may appeal the action in writing to the County Manager.

The appeal must contain the response of the employee to the charges, a response to the disciplinary actions taken, the remedy desired by the employee, and any other pertinent information.

The Chief Human Resources Officer will assign the appeal to a staff investigator to determine the merit of the action. Within fifteen (15) business days after receipt of the employee’s notice of appeal, the staff investigator will make a recommendation to the Chief Human Resources Officer regarding the disposition of the appeal, and the basis for





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the recommendation and evidence relied upon. The Chief Human Resources Officer reserves the right to further investigate any issues raised in the appeal. Neither party shall have a legal representative or other third party present during the investigation, unless requested and approved under circumstances requiring a reasonable accommodation.

The Chief Human Resources Officer will make a written recommendation to the County Manager within five (5) business days after receipt of the staff investigator's recommendation. The recommendation to the County Manager will include the specifics of the charges, the investigator's findings and the basis for the recommendation. The Chief Human Resources Officer will also notify the employee by certified mail to his/her home address of the recommendation to the County Manager within five (5) business days after receipt of the staff investigator's recommendation.

Unless a hearing is requested, the County Manager will render a final decision within five (5) business days after the deadline for requesting a hearing. The decision will be sent to the employee's home by certified mail.

### **9.1.2 Appeal Hearing**

At the request of the appealing employee, the County Manager will conduct a hearing in the matter of suspension, salary reduction, demotion or dismissal. A request by the employee for a hearing shall be made within five (5) business days after receipt by the employee of the recommendation of the Chief Human Resources Officer.

In the event a hearing is held, the appealing employee and his department head will both be present and have the right to be represented by legal counsel. Either party may request the presence of any person(s) who will provide information that will assist the County Manager in rendering a decision. The names of all such persons shall be submitted to the County Manager no later than five (5) business days prior to the hearing date. The County Manager will reserve the right to limit the number of persons to appear.

The County Manager will render a decision, which includes the basis for the decision and evidence relied upon, within five (5) business days after the hearing and will send the decision to the employee's home by certified mail. The decision of the County Manager will be final.

All hearings provided for herein shall be conducted during working hours. While every effort will be made to accommodate the schedule of the appealing employee, the appealing employee is expected to be available for the hearing that he or she has requested with the County Manager at the time that the hearing has been scheduled. If the appealing employee fails to show for the hearing at its scheduled date and time, the County Manager will conduct the hearing and render a decision based on the information provided by the parties in attendance.



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### **9.1.3 Appeal of a Disciplinary Warning**

An eligible employee who wishes to appeal a disciplinary warning may within five (5) business days after the disciplinary action, and after notifying his department head in writing of his intentions, appeal the action in writing to the Chief Human Resources Officer. The appeal must be delivered to the Human Resources Department no later than 5:00 p.m. on the fifth day. The appeal to the Chief Human Resources Officer must contain the response of the employee to the charges and the remedy desired by the employee.

The Chief Human Resources Officer will assign the appeal to a staff investigator to determine the merit of the action. Within fifteen (15) business days after receipt of the employee's notice of appeal, the staff investigator will make a recommendation to the Chief Human Resources Officer regarding the disposition of the appeal, and the basis for the recommendation and evidence relied upon. Neither party shall have a legal representative or other third party present during the investigation, unless requested and approved under circumstances requiring a reasonable accommodation.

The Chief Human Resources Officer reserves the right to further investigate any issues raised in the appeal. The Chief Human Resources Officer will render a decision within five (5) business days after receipt of the staff investigator's recommendation. The decision will be sent to the home of the appealing employee by certified mail. The decision of the Chief Human Resources Officer is final.

### **9.1.4 Failure to Comply with Appeal Procedures**

If the appealing employee fails to comply with the procedures and time limits established herein, the Chief Human Resources Officer may dismiss the appeal.

### **9.1.5 Department Head and/or Direct Reports to the County Manager Appeal of Disciplinary Action**

Department heads, whether or not they report to the County Manager in their day-to-day operations, and any non-department head who directly reports to the County Manager covered by this policy may appeal a disciplinary warning, suspension, salary reduction, demotion, or dismissal in writing to the County Manager within five (5) business days after the disciplinary action. The appeal must contain the response of the department head to the charge(s), a response to the disciplinary action(s) taken, the remedy desired by the department head and any other pertinent information.

The County Manager will schedule a hearing as soon as is practicable. At the hearing, the department head shall have the right to be represented by legal counsel and may request the presence of any person(s) who will provide information that will assist the County Manager in rendering a decision. The names of all such persons, including the name of legal counsel hired by the department head, and how they are related shall be submitted



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to the County Manager no later than five (5) business days prior to the hearing date. The County Manager reserves the right to limit the number of witnesses to appear at the hearing. The County Manager will render a written decision within five (5) business days after the hearing, which shall include the basis for the decision and the evidence relied upon. The decision of the County Manager will be sent to the home of the department head by certified mail. The decision of the County Manager is final.

### 9.1.6 Failure to Comply with Appeal Procedures

If the appealing party fails to comply with the procedures and time limits established herein, the County Manager may dismiss the appeal.

## 9.2 Grievance - Purpose and Applicability

It is the policy of the County to foster the kind of work environment that supports the efforts of all employees to provide quality services to the citizens of New Hanover County. Accepting the inevitability of disagreements between employees and their supervisors, the purpose of this policy is to provide internal procedures whereby such disputes or employee concerns about treatment or conditions of work may be rapidly, fairly and consistently addressed. This policy may not be used to appeal a disciplinary action; the appeal policy should be used instead.

This policy applies to all regular (benefits-eligible) employees, with the following exceptions:

- Employees in the offices of the Sheriff and Register of Deeds, elected officials who, by North Carolina General Statutes, have full authority in personnel decisions involving employees in their respective departments;
- Any employees who are appointed by the County Commissioners whereas, in such appointments, the Board has full authority in personnel decisions over them; or
- The Elections Director who is appointed by the Board of Elections which has full authority over the position in personnel decisions.

### 9.2.1 Grievance Policy

Eligible employees may use the employee grievance procedure to resolve a complaint based upon an event or condition which affects the circumstances under which the employee works, such as misinterpretation, unfair application, or lack of established policy pertaining to employment conditions.

This grievance procedure does not apply to the following issues:

- Disciplinary actions covered by the Appeal Policy;
- Complaints of workplace harassment covered by the Unlawful Workplace Harassment Policy;
- Personnel actions which do not represent any harm to the employee, such as assignment to another position or location wherein the employee does not suffer any loss of pay;



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- Downgrades resulting from voluntary or involuntary demotions.

This procedure is to be used internally only and does not confer upon either supervisor or employee any remedies other than those expressly contained herein. All parties involved in a proceeding within the purview of this policy shall be protected from reprisals for such involvement. Parties engaging in any form of retaliation will be subject to disciplinary action, up to and including termination.

### 9.2.2 Grievance Procedure

When an employee or group of employees has a grievance, the following successive steps are to be taken. The number of days indicated at each level should be considered as the maximum number of days unless provided otherwise and every effort should be made to expedite the process. However, when mutually agreed upon, time limits given below may be extended. If the grieving employee does not follow the timelines for successive steps, it may be considered as a withdrawal of the grievance and the grievance may be dismissed accordingly.

*For purposes of this policy, the term “business days” refers to weekdays on which the County is open for regular business. Exceptions are weekend days, County holidays or other weekdays County offices are deemed “closed” for regular business.*

### 9.2.3 Grievance Procedure - Step 1

The employee must present the grievance in writing to the immediate supervisor within ten (10) business days of the event or within ten (10) business days of when the employee learns of the event. The grievance must contain a brief but clear description of what issues the employee wants addressed. It must also contain a clear description of the remedy the employee is seeking. If the grievance does not contain both a clear description of the issues and the remedy sought, the supervisor may ask for clarification and may delay the response timeframe by the number of days it takes the employee to submit the requested clarification. The supervisor should and is encouraged to consult with any County employee or officer deemed necessary to reach a correct, impartial and equitable determination and shall give the employee a response as soon as possible, but within five (5) business days of receipt of the grievance. The grievance and supervisor’s response shall be reported in writing to the department head and to the Chief Human Resources Officer. If the issue is resolved at this step, the supervisor or department head shall convey in writing to the Chief Human Resources Officer the terms of such resolution. The employee shall sign off on this document, indicating agreement to the terms described. If it is not resolved, the supervisor or department head shall convey in writing to the Chief Human Resources Officer the reason(s) it was not resolved. All written documentation pertinent to the filing and resolution of the grievance shall be maintained in a separate grievance file in the Human Resources Department.



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### 9.2.4 Grievance Procedure - Step 2

If the grievance is not resolved during Step One and the employee wants to pursue it to the department head, the employee must file the grievance in writing to the department head within ten (10) business days of receipt of the response by the supervisor in Step 1. The department head shall render a decision within a maximum of ten (10) business days of receipt of the grievance. If the issue is resolved at this step, the supervisor or department head shall convey in writing to the Chief Human Resources Officer the terms of such resolution. The employee shall sign off on this document, indicating agreement to the terms described. If it is not resolved, the supervisor or department head shall convey in writing to the Chief Human Resources Officer the reason(s) it was not resolved. All written documentation pertinent to the filing and resolution of the grievance shall be maintained in a separate grievance file in the Human Resources Department.

### 9.2.5 Grievance Procedure - Step 3

If the grievance is not resolved during Step 2 and the employee wants to pursue it to the County Manager, the employee must, within ten (10) business days of receipt of the department head's response in Step 2, submit a written request to the department head to forward the written grievance to the County Manager. In the request, the employee shall list the names of all employees he would like to be heard by the County Manager. The department head must forward the employee's written grievance to the County Manager within a maximum of three (3) business days from receipt of the employee's request. The County Manager shall arrange a time to hear the employee or group of employees as soon as is practicable, and the department head and employee will be notified of the date of the scheduled hearing. The County Manager shall determine the hearing procedures and who will be present during any part of the hearing, but basically the hearing will consist of an opportunity for both the employee(s), supervisor(s) and department head to be heard and the County Manager to ask questions to clarify issues. In the hearing, the employee must produce evidence justifying or otherwise supporting the allegations made in the grievance. Supervisors and the department head defending the charges at the hearing will be given the right to examine all evidence determined as relevant by the County Manager. The hearing is an internal procedure and neither party may have legal or other representation. The County Manager will make a decision as to an appropriate resolution and will notify the employee of his decision within five (5) business days of the hearing by certified mail to the employee's home address. The County Manager's decision is final.

No determination of any grievance will in any way conflict with any County policies, resolutions, or ordinances, or with any state or federal statutes applicable thereto.



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### ARTICLE 10: EMPLOYEE BENEFITS

#### 10.0 Benefits Policy - Purpose and Applicability

In addition to providing the benefit of paid leave, the County seeks to enhance employees' total compensation by adding other benefits of value so that the County can attract and retain qualified employees to provide County services. Unless expressly excluded, covered employees include those individuals who hold regular (benefits-eligible) positions, including employees appointed by the Board of County Commissioners and elected officials. Retirees from County service are eligible for insurance and other benefits as described herein.

#### 10.1 Benefits Policy

The County shall provide group medical, dental and other insurance programs and benefits to its employees, employees' dependents and retirees. These provided benefits are subject to the approval of the Board of County Commissioners on a yearly basis.

##### 10.1.1 Medical and Dental Insurance - Eligibility

While employed, regular (benefits-eligible) employees who are in full-time or part-time positions at a minimum of 20 hours/week and who receive a W2 form for annual tax filings and elected officials are eligible for group medical and dental insurance coverage. Individuals who are issued 1099 forms for annual tax filings are not employees.

##### 10.1.2 Medical and Dental Insurance - Enrollment

New Employee Enrollment: Eligible employees are first eligible for enrollment for medical and dental coverage as a newly hired employee. They are offered coverage and must enroll or waive coverage at that time.

Open Enrollment: Employees are given the opportunity annually during open enrollment to make changes in their medical and dental plans.

##### 10.1.3 Medical and Dental Insurance - Effective Date

Coverage takes effect in accordance with the dates established annually and set forth in the New Hanover County Payroll Schedule.

##### 10.1.4 Medical and Dental Insurance - Dependent Coverage

Eligible covered employees may enroll their eligible dependents for coverage. Eligible dependents include:

- a. The employee's spouse, under a legally valid, existing marriage;



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- b. The employee's unmarried children or the employee's spouse's unmarried children up to age 26 who are the employee's legal dependents;
- c. The employee's children or employee's spouse's children including newborn children from date of birth, stepchildren, adoptive children from date of placement in anticipation of adoption, foster children from date of placement in a foster home (as defined by North Carolina law), and children for whom medical benefit coverage is required under a court or administrative order, and as determined eligible by the insuring corporation;
- d. The employee's unmarried child who is mentally or physically handicapped and incapable of self-support, who may be covered under the program regardless of age if the condition existed and coverage was in effect upon attainment of the limiting age.

### **10.1.5 Medical and Dental Insurance - Rates**

Medical and dental insurance rates are established annually by the insurance companies and must be approved by the Board of County Commissioners. Rate changes are effective August 1<sup>st</sup> of each year, which is the beginning of the benefit year.

New Hanover County and the employee share the cost of medical and dental insurance coverage. A schedule of rates is established annually and set forth in the New Hanover County Benefit Rate Schedule.

### **10.1.6 Medical Insurance for Retirees**

Retiring employees will be subject to the policy provisions in effect on the date of their retirement. Employees may qualify for continued coverage under the County's group medical insurance program, as outlined in this section as long as their required portion of the monthly premium is timely paid to the County. Employees may maintain the type of coverage in effect at the time of retirement; however, when they or covered spouses/dependents reach age 65, they must obtain primary coverage through the Federal Medicare plan (Parts A & B), which will become primary, and the County's medical insurance plan will assume secondary responsibility for covered medical services. Failure to obtain Federal Medicare plan (Parts A & B) at age 65, may result in cancellation of coverage under the County's group medical insurance program without future reinstatement into the plan.

Retiring employees must make an election to continue or terminate coverage at the time of their retirement. If they waive the right to continue coverage at the date of retirement, they may not elect coverage at a future date. Retired employees may not add other members to their plan at a future date. The only exception to this rule: When a retiree's spouse is an active County employee, the retiree may choose to become a dependent under the spouse's certificate. When the retiree loses eligibility under the spouse's



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certificate, he/she may at that time exercise the retiree insurance options that were available at the time of retirement.

### 10.1.7 Dental Insurance for Retirees

Retiring employees may qualify for continued coverage under the County's group dental insurance program, as outlined in this policy, as long as the retiree makes timely premium payments and until the termination of such policy by the covered individual or the County. Employees may maintain the type of coverage in effect at the time of termination.

Retiring employees must make an election to continue or terminate coverage at the time of their retirement. If they waive the right to continue coverage at the date of retirement, they may not elect coverage at a future date. Retired employees may not add other members to their plan at a future date. The only exception to this rule: When a retiree's spouse is an active County employee, the retiree may choose to become a dependent under the spouse's certificate. When the retiree loses eligibility under the spouse's certificate, he/she may at that time exercise the retiree insurance options that were available at the time of retirement.

### 10.1.8 Medical and Dental Insurance - Requirements for Continued Coverage

An employee must meet the requirements of one of the categories detailed below in order to qualify for continued coverage under the County's group medical and dental insurance programs:

- a. A regular (benefits-eligible) employee who retires under one of the provisions of the North Carolina Retirement System, and who has at least five (5) consecutive years of service with New Hanover County immediately prior to retirement is qualified for continued coverage under this section.
- b. A regular (benefits-eligible) firefighter or sworn law enforcement officer who becomes totally and permanently disabled from his/her job, as approved by the North Carolina Retirement System's Medical Review Board, and whose disability is the result of an accident while performing his/her duty as such needs only one (1) year of creditable service for continued coverage under this section.
- c. A benefits-eligible employee appointed directly by the Board of County Commissioners who retires under one of the provisions of the North Carolina Retirement System, with at least five (5) consecutive years of service with New Hanover County immediately prior to retirement is qualified for continued coverage under this section.
- d. A County Commissioner who serves at least 10 years, which do not have to be consecutive, is qualified for continued coverage under this section.

*Creditable service with the North Carolina Retirement System may include service earned for each month the employee works and contributes, service earned through accumulated sick leave, military buyback, withdrawn service restored through a buyback, creditable*





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*service transferred from another system which falls under the umbrella of the North Carolina State Treasurer's Office, or any other type of creditable service recognized by the North Carolina State Treasurer's Office. The service need not be continuous.*

### 10.1.9 Medical and Dental Retiree Rates

A regular (benefits-eligible) employee or an employee appointed by the Board of County Commissioners, the Sheriff or the Register of Deeds who retires from New Hanover County based upon the eligibility criteria for any type of retirement established by the North Carolina Retirement System will pay for continued coverage according to the following schedule.

*NOTE: The County's contribution towards the retiree's insurance premiums is based on a set amount or percentage of the cost of individual coverage. Qualifying individuals choosing to cover eligible dependents will pay any additional cost to cover their eligible dependents.*

- a. Qualifying individuals with at least five (5) but less than fifteen (15) years of creditable service will be allowed to continue coverage and will pay 100% of the total cost for coverage.
- b. Qualifying individuals with at least fifteen (15) years but less than twenty (20) years of creditable service will pay 75% of the total cost for individual coverage.
- c. Qualifying individuals with at least twenty (20) years but less than twenty-five (25) years of creditable service will pay 50% of the total cost for individual coverage.
- d. Qualifying individuals with at least twenty-five (25) years but less than thirty (30) years of creditable service will pay 25% of the total cost for individual coverage.
- e. Qualifying individuals with at least thirty (30) years of creditable service will pay the prevailing payroll rate for individual coverage.
- f. Employees appointed directly by the Board of County Commissioners who qualify under this policy, will be allowed to continue individual coverage based on the rates and criteria established under this policy.
- g. Employees who do not meet the County's established criteria for continued coverage must pay the entire cost of the group medical and dental insurance premiums, plus any administrative fees that might be imposed, for the period allowed by the provisions of the plan contract or any legislative mandates governing the continuation of group health and dental insurance benefits (COBRA).
- h. When a qualifying individual who retired on or after August 1, 2003 deceases *and* there are dependents covered under the qualifying individual's plan at the time of the qualifying event, the dependents losing coverage because of the qualifying event shall be offered continuation coverage for the period allowed by any legislative mandates governing the continuation of group health and dental insurance benefits (COBRA).

### 10.1.10 Continued Medical and Dental Coverage for County Commissioners Leaving Office



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County Commissioners who serve at least 10 years, which do not have to be consecutive, will pay 50% of the total cost for individual coverage, plus any additional costs for dependents. A Commissioner who leaves office and qualifies for continued coverage under this policy must at age 65 obtain primary coverage through the Federal Medicare plan (Parts A & B), which will become primary, and the County's medical insurance plan will assume secondary responsibility for covered medical expenses.

### **10.1.11 Medical and Dental Insurance - Premium Payment**

Participants must pay all premiums by the first day of the month for which coverage is in effect. New Hanover County bills participants monthly and allows a thirty (30)-day grace period for payment. Nonpayment or late payment will result in irrevocable cancellation.

Participants receiving continuation coverage under COBRA provisions will be billed by a third party administrator contracted to administer the county's COBRA program. The Third Party Administrator allows a thirty (30)-day grace period for payment. Nonpayment or late payment to the third party administrator will result in irrevocable cancellation.

### **10.1.12 Continued Medical and Dental Insurance - COBRA**

Eligible employees who do not qualify for continued coverage under the County's group medical and dental insurance programs will be afforded continued coverage in accordance with the plan contract or any legislative mandates governing the continuation of group medical and dental insurance benefits (COBRA).

## **10.2 Retirement Benefits**

Employees become members of the North Carolina Local Government Employees' Retirement System (NCLGERS) on their date of hire, if hired as a full-time or part-time employee of New Hanover County and their duties require that they work at least 1,000 hours in any consecutive 12-month period. Employees who are sworn law enforcement officers shall be enrolled in the North Carolina Local Governmental Employees' Retirement System for Local Law Enforcement Officers on their date of hire, if hired as a full-time or part-time employee of New Hanover County and their duties require that they work at least 1,000 hours in any consecutive 12-month period. Contributions to the appropriate retirement system are deducted from the employee's pay checks and contributions are also made by the County, at a rate determined by the State Department of the Treasurer, Retirement Systems Division.

### **10.2.1 Retirement Benefits - Death of Employee**

After one year of creditable service, employees are eligible for a death benefit. Should an eligible employee die while actively employed, the designated beneficiary(ies) will receive a single lump-sum payment which equals the highest 12 consecutive months of salary during the 24 months preceding death, but no less than \$25,000 and no more than



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\$50,000. This benefit is also paid if death occurs within 180 days of the last day for which an employee is paid a salary.

### **10.2.2 Retirement Benefits - Vesting**

After five years of creditable service in the NCLGERS, employees are vested for purposes of retirement benefits in accordance with the eligibility requirements established by the State Department of the Treasurer, Retirement Systems Division.

### **10.3 Supplemental Retirement Plans**

All regular (benefits-eligible) employees are eligible to participate in any supplemental retirement plan offered by the County, such as the 457 Deferred Compensation Plan or the 401(k) Supplemental Retirement Income Plan. All employee contributions are voluntary.

As required by State law, the County contributes 5% of gross salary to the 401(k) Plan for qualified sworn law enforcement officers. For non-law enforcement positions, the County does not make a contribution.

### **10.4 Other Insurance Plans and Benefits**

The County offers other a wide array of group insurance plans and benefits. For some, the premiums are paid by the County; for others, the premiums are paid by the employee. The offerings are subject to change each benefit plan year and, therefore, it is not practical to list them in this policy. Current insurance plans and benefits listings and details can be found on the Human Resources internet or intranet website.

### **10.5 Employee Wellness Benefits**

Eligible employees and retirees may participate in the County's wellness program, access the on-site clinic, and receive on-site flu and tetanus immunizations.

### **10.6 Workers' Compensation Benefits**

County employees are covered by the North Carolina Workers' Compensation Act and may be eligible for Workers' Compensation benefits as a result of all injuries arising out of and in the course of employment. An employee has a responsibility to timely report any such injury to his or her supervisor or to the County safety officer.

### **10.7 FICA**

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



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### 10.8 Unemployment Insurance Benefits

County employees may be eligible to receive unemployment benefits once their employment with the County ends, provided they establish a claim and are not disqualified by the Employment Security Commission under the conditions outlined in GS 96-14. This is a benefit paid by employers.



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### ARTICLE 11: PERSONNEL RECORDS AND REPORTS

#### 11.0 Personnel Records Maintenance

Such personnel records as are necessary for the proper administration of the personnel system will be maintained by the Chief Human Resources Officer. The County shall maintain in personnel records only information that is relevant to personnel administration.

#### 11.1 Access to Personnel Records

As required by North Carolina GS 153A-98, any person may have access to the information listed below for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the Board of County Commissioners may adopt:

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

Access to such information shall be governed by the following provisions:

- a. All disclosures of records shall be accounted for by keeping a written record (except for authorized persons processing personnel actions) of the following information:
  - Name of employee; information disclosed; date information disclosed; name and address of the person to whom the disclosure is made; and purpose for which information is requested. This information must be retained for a period of two (2) years.
- b. Upon request, record of disclosure shall be made available to the employee to whom it pertains.
- c. An individual examining a personnel record may copy the information; any available photocopying facilities may be provided and the cost may be assessed to the individual.



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- d. Any person denied access to the information listed in this Article shall have a right to compel compliance with these provisions by application to a court for injunctive or other appropriate relief.

### 11.2 Confidential Information

All information contained in a County employee's personnel file, other than the information listed above in this Article will be maintained as confidential in accordance with the requirements of GS 153A-98 and shall be open to inspection only in the following instances:

- a. The employee or his/her duly authorized agent may examine all portions of his/her personnel file, except (1) letters of reference solicited prior to employment and (2) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to the patient.
- b. A licensed physician designated in writing by the employee may examine all materials in the employee's medical records.
- c. A County employee having supervisory authority over the employee may examine all material in the employee's personnel file.
- d. By order of a court of competent jurisdiction, any person may examine such portion of an employee's personnel file as may be ordered by the court.
- e. An official of any agency of the State, of federal government, or of a political subdivision of the State, may inspect any portion of a personnel file when such information is deemed by the County Manager to be necessary and essential to the pursuance of a proper function of the inspecting agency; but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee, or for the purpose of assisting in an investigation of the employee's tax liability. However, the Chief Human Resources Officer may release the name, address and telephone number from a personnel file for the purpose of assisting in a criminal investigation, unless otherwise prohibited by North Carolina General Statutes that pertain to the confidentiality of information for employees who are sworn law enforcement officers or firefighters or perform duties that include responding to emergencies.
- f. An employee may sign a written release, to be placed with his/her personnel file, that permits the Chief Human Resources Officer or his/her designee(s) 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 concurrence of the Board of County Commissioners, may inform any person of the employment or non-employment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or dismissal of a County employee and the reasons for the personnel action. Before releasing the information, the County Manager shall determine in writing that the release is essential to maintaining public confidence in the administration of County services or to maintaining the level and quality of County services. This written determination shall be retained by the Clerk to the Board of County Commissioners, is a record available for public inspection, and shall become part of the employee's personnel file.



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- h. Each individual requesting access to confidential information will be required to submit satisfactory proof of identity. A record shall be made of each disclosure and placed in the employee's personnel file.

### **11.2.1 Safeguarding Confidential Information**

In order to insure the security and confidentiality of records, the Chief Human Resources Officer shall establish administrative, technical and physical controls to protect confidential information from unauthorized access or disclosure. Medical records shall be maintained in confidential files, separate and apart from personnel files.

### **11.2.2 Penalty for Permitting Access to Confidential File by Unauthorized Person**

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

### **11.2.3 Penalty for Examining or Copying Confidential Material without Authorization**

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

## **11.3 Records of Former Employees**

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

## **11.4 Remedies of Employees Objecting to Material in File**

An employee who objects to material in his/her personnel file may place in the file a statement relating to the material considered to be inaccurate or misleading. The employee may seek the removal of such material in accordance with established grievance procedures, provided he/she files the grievance within the prescribed time after he/she knew of the material being placed in the file. See grievance policy.

## **11.5 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, without the consent of the State Department of Cultural Resources.



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Whoever unlawfully removes a public record from the office where it is usually kept or alters, defaces, mutilates, or destroys it will be guilty of a misdemeanor and upon conviction will be fined, as provided in GS 132-3.

### 11.6 Electronic Records System Policy - Purpose and Applicability

The purpose of this policy is to establish guidelines for document archiving and for destruction of original records that are duplicated electronically through imaging by the New Hanover County Human Resources Department. This electronic imaging record policy reflects guidelines set forth in the North Carolina Department of Cultural Resources publication, *North Carolina Guidelines for Managing Public Records Produced by Information Technology Systems*. Established guidelines will not only increase the reliability and accuracy of records stored in information technology systems, but will also ensure they remain accessible. Established guidelines for reproduced records will likewise enhance their admissibility and acceptance by the judicial system as being trustworthy. Privileged or confidential information will also be protected by this policy.

#### 11.6.1 Electronic Records System Policy and Procedures

As defined in the North Carolina Department of Cultural Resources publications, *Records Retention and Disposition Schedule for County Management*, personnel records may be imaged and stored on optical disk.

- a. The New Hanover County Human Resources Department will seek the approval of the North Carolina Department of Cultural Resources for the destruction of any paper records that have been scanned in accordance with this policy. That approval will be requested and recorded on the "Request for Disposal of Original Records Duplicated by Electronic Means" form. The New Hanover County Human Resources Department will submit a new form each time it begins to scan a new records series.
- b. Destruction of the original paper record (and copies thereof) will be processed following imaging and quality control assurance. Paper records identified as "permanent" by the North Carolina Department of Cultural Resources publications, *Records Retention and Disposition Schedule for County Management*, will not be purged unless a microfilm preservation duplicate is created prior to the destruction of such records.
- c. Optical disks containing scanned records will be maintained for the specified retention times according to the *Records Retention and Disposition Schedule for County Management*, published by the North Carolina Department of Cultural Resources.
- d. New Hanover County Human Resources Department staff will prepare the original paper record (and copies thereof) for burning. Documents will be boxed for burning, with boxes clearly labeled and properly secured. Boxes identified for burning will be transported to the county incinerator by New Hanover County Property Management staff.
- e. Security back-ups of all imaged documents will be generated nightly and maintained off-site by the New Hanover County Information Technology Department.





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- f. An index of all records imaged will be kept in electronic format along with a listing of destruction dates.
- g. All records stored on optical disk will be considered the official agency record. Any hard copy generated from the optical disk will be considered the agency's duplicate working copy.

### 11.6.2 Electronic Records System Policy and Procedures Training and Documentation

- a. New Hanover County Human Resources Department staff will be trained in the correct procedures required for imaging, viewing, and reproducing records.
- b. Documentation for all imaging activities will be maintained through audit trails built into the imaging system to protect the New Hanover County Human Resources Department from potential fraud or any other unauthorized acts as well as for maintaining record authenticity. Imaged records will be audited periodically (by the department's Quality Assurance Committee) for accuracy, readability, and reproduction capabilities. An audit report will be prepared indicating the sampling of records produced, along with any procedures that will be followed if the expected level of accuracy was not identified.
- c. Detailed procedures will be maintained by the New Hanover County Human Resources Department that will describe the process followed to produce and reproduce an automated record. This documentation will be updated as needed and will include a description of the system hardware and software. A current procedural manual will be maintained to ensure the most current processes are followed. Documentation will also be maintained for the distribution of written procedures, attendance of staff at training sessions, dates of these occurrences as well as other relevant information.
- d. User and operational documentation describing how the system operates from a functional user and data processing perspective, including records documenting data entry, manipulation, output and retrieval and records concerning the development and / or modification of data will be maintained for three (3) years after discontinuance of the system and after all data (records) created by the system have been destroyed or transferred to a new operating environment. Such documentation is needed in order to ensure the accessibility of imaged records and have value as long as the electronic records (data) are retained.

### 11.6.3 Electronic Records System Policy—Other Information

A detailed listing of the specific types of records, identified in Personnel Records is available in the North Carolina Department of Cultural Resources publications, *Records Retention and Disposition Schedule for County Management*.

### 11.6.4 References

<http://www.history.ncdcr.gov/> and <http://www.ncdcr.gov/resources/records-management>



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### ARTICLE 12: IMPLEMENTATION OF POLICY

#### 12.0 Conflicting Policies Repealed

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

#### 12.1 Separability

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

#### 12.2 Violation of Policy Provisions

An employee violating any of the provisions of this policy will be subject to disciplinary action, up to and including dismissal, in addition to any civil or criminal penalty which may be imposed for violation of the same.

#### 12.3 Effective Date

This policy is effective May 16, 1977.

This policy is most recently fully reviewed and modified effective July 1, 2019.