

# SCOTLAND COUNTY



## PERSONNEL POLICY MANUAL

June 2006 (Revised)

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**ARTICLE I. ORGANIZATION OF PERSONNEL SYSTEM**

**Section 1. Purpose**

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

**Section 2. Coverage**

- A. All employees in the service of Scotland County, including employees of the County Sheriff and the Register of Deeds are subject to this policy, except as provided in this section.
- B. Elected Officials, the County Manager, and the County Attorney are exempt from all provisions of this policy unless stated otherwise. .
- C. The following employees are covered only by the listed articles and sections:
  - 1. Employees governed by the State Personnel Act shall be subject to all articles except Article II.
  - 2. Employees of the North Carolina Co-operative Extension Service shall be subject to all Articles except Articles II, III, IV, and VII.
  - 3. The Director of Elections shall be subject to all articles except Articles IV, V, VIII, and IX.
  - 4. Employees of the County Sheriff and the Register of Deeds shall be subject to all articles except Article VIII.
  - 5. Temporary employees, as designated by the Scotland County Board of Commissioners, shall be subject to all articles except Articles VI and VII.

**Section 3. Definitions**

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

**Anniversary Date.** The employee’s original date of employment in a permanently established position with Scotland County.

**Appointing Authority.** Employee or board with the legal authority to make hiring decisions. Appointing authorities are:

<u>Position</u>	<u>Appointing Authority</u>
County Manager	Board of Commissioners
Asst. County Manager	County Manager
Finance Officer	Board of Commissioners
Deputy Finance Officer	Board of Commissioners
Department Heads	County Manager
Health Director	Board of Health
Health Department Employees	Health Director
Social Services Director	Board of Social Services
Social Services Dept. Employees	Social Services Director

Sheriff	(Elected)
Sheriffs' Department Employees	Sheriff
Register of Deeds	(Elected)
Register of Deeds' Employees	Register of Deeds
Tax Assessor	Board of Commissioners
Elections' Director	Board of Elections
Elections' Employees	Elections' Director
All County Employees <small>(not included above)</small>	County Manager

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

**Competitive Service Employee.** (Also known as State Personnel Act Employee) An employee of the Department of Social Services and the Department of Public Health receiving federal grant-in-aid funds and subject to the State Personnel Act.

**Cost-of-Living Increase.** An annual adjustment that may be made by the Board of Commissioners to all pay ranges effective July 1 of each year.

**County Administrative Policy.** Administrative procedures, deadlines, etc. necessary for implementation of policy as determined by the County Manager and/or his/her staff (also referred to as Office of Administration).

**County Administrative Staff.** Employees who are housed in the County Office of Administration and are under the direct supervision of the County Manager.

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

**Department Heads.** Employees who are responsible for the organization and administration of specific County departments. For the purposes of this policy Directors of the Health Department and Social Services Department as well as Elections Director will be included where "department head" is mentioned.

**Designee.** An employee who has been designated to make decisions or conduct business on behalf of another employee.

**Full-time Employee.** An employee appointed to a permanently established position who is regularly scheduled to work not less than the number of hours per workweek designated by the Board of Commissioners as full time.

**General County Employee.** A County employee not subject to the State Personnel Act.

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

**Hiring Rate.** The salary paid an employee when hired into county service, normally the minimum of the salary range.

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

**Maximum Salary Rate.** The maximum salary authorized by the pay plan for an employee within an assigned salary grade.

**Merit Increase.** An increase in salary above the standard job rate based on service that exceeds the standard and/or expected performance of the assigned position as recommended by the department head and approved by the County Manager.

**Part-Time Employee.** An employee appointed to a permanently established position that is regularly scheduled to work less than the number of hours per workweek designated by the Board of Commissioners as full time and is paid on an hourly basis.

**Pay Plan.** A schedule of pay ranges arranged by sequential rates including minimum, intermediate, and maximum steps for each class assigned to a salary range.

**Performance Evaluation System.** A review to assess an employee's work performance.

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

**PRN Employee.** Employees who work a discretionary schedule or on an "as needed" basis, as determined by the department head. This appointment is not entitled to benefits and is paid on an hourly basis.

**Probationary Period.** A working test period of three to nine months for all County employees, except law enforcement officers who will serve a probationary period of up to twelve months. During this time, an employee is required to demonstrate, by actual performance, his/her ability to perform the work required and his/her general suitability as an employee of the County.

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

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

**Regular Employee -** A person appointed to serve in a position for an indefinite duration and who has successfully served a probationary period.

**Salary Grade.** All positions that are sufficiently comparable to warrant one range of pay rates.

**Salary Plan Revision.** The uniform raising or lowering of the salary ranges of every grade within the salary plan.

**Salary Range.** The minimum and maximum salary levels for a given classification for hiring purposes.

**Salary Range Revision.** The raising or lowering of the salary range for one or more specific classes or positions within the classification plan.

**Salary Schedule.** A listing by grade and step of all the approved maximum, intermediate, and minimum salary ranges authorized by the Board of Commissioners for various position classifications of county government for hiring purposes.

**Temporary Employee -** An employee regularly scheduled to work either on a full-time or part-time basis, for a period not to exceed twelve (12) months.

**Work Against Employee -** When qualified applicants are unavailable and there is no trainee provision for the classification of the vacancy, the appointing authority may appoint an employee below the level of the regular classification in a work-against situation.

#### **Section 4. Merit Principle**

All appointments, promotions, and other personnel transactions shall be made solely on the basis of merit and fitness. All positions requiring performance of substantially similar and equal responsibilities will be assigned to the same class and the same salary range. No employee or applicant for County employment shall be deprived of employment opportunities or otherwise

adversely affected as an employee because of such individual's race, color, religion, sex, national origin, political affiliation, non-disqualifying handicap, or age.

**Section 5. Responsibility of the Board of Commissioners**

The Scotland County Board of Commissioners (hereinafter referred to as the Board of Commissioners) shall establish and amend personnel policies and rules, including the classification and pay plan, and shall make and confirm appointments when required by law.

**Section 6. Responsibility of the County Manager**

The County Manager shall be responsible to the Board of Commissioners for the administration and technical direction of the personnel program. The County Manager shall appoint, suspend, and remove all county officers and employees, except those elected by the people or those whose appointment is otherwise provided for by law. The County Manager shall make appointments, dismissals, and suspensions and determine conditions of employment in accordance with G. S. 153A-82 and the policies and procedures defined in this personnel policy. The County Manager shall be responsible for interpreting policies when necessary and recommending to the Board of Commissioners policy changes and new policies. The County Manager shall periodically issue administrative and technical bulletins to interpret personnel policy and provide for administrative procedures.

**Section 7. Responsibility of the Personnel Director**

The County Manager shall appoint a Personnel Director who shall assist in the preparation and maintenance of the position classification plan and the pay plan and perform such other duties in personnel administration as the County Manager and/or his/her designee shall require.

**Section 8. Responsibility of Department Head(s)**

Each department head shall be responsible for the organization and administration of his/her department in accordance with all applicable federal, state and county policies and regulations including this personnel policy and County Administrative Policy.

**Section 9. Responsibility of County Employees**

Every job with Scotland County is important. The manner in which Scotland County Employees serve the public affects to a large extent the public relations of County Government. The people of the County form their opinions of County Government from their contact with individual employees. The responsibility of **all** Scotland County Employees is to serve all of the people of the County with efficiency and courtesy. Scotland County expects each employee to treat all citizens with fairness assuring that special privileges are given to none. Each Scotland County employee is also accountable for adhering to the Customer Service Standards, which is established as Administrative Policy, as approved and amended by the County Manager.

**Section 10. Violations of Policy Provision**

An employee who violates any of the provisions of this policy, or administrative policies as approved by the County Manager, may be subject to suspension, demotion, or dismissal in addition to any civil or criminal penalty, which may be imposed.

## **ARTICLE II. POSITION CLASSIFICATION PLAN**

### **Section 1. Adoption of Position Classification Plan**

The position classification plan, as from time to time approved by the Board of Commissioners, is hereby adopted as the position classification plan for Scotland County.

### **Section 2. Allocation of Positions**

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

### **Section 3. Administration**

A. The County Manager, or person(s) designated by the County Manager, shall be responsible for the administration and maintenance of the position classification plan so that it will accurately reflect the duties performed by employees in the classes to which their positions are allocated. Department heads shall be responsible for bringing to the attention of the County Manager the need for new positions and material changes in the nature of duties, responsibilities, or working conditions affecting the classification of a position.

B. New positions shall be established upon recommendation of the County Manager with the approval of the Board of Commissioners. The County Manager may allocate the new position to the appropriate class within the existing classification plan; or recommend that the Board of Commissioners amend the position classification plan to establish a new class to which the new position may be allocated.

C. When the County Manager finds that a substantial change has occurred in the nature or level of duties and responsibilities of an existing position, the County Manager shall direct that the existing class specification be revised; reallocate the position to the appropriate class within the existing classification, or recommend the Board of Commissioners amend the position classification plan to establish a new class to which the position may be allocated.

### **Section 4. Amendment**

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

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

### **Section 1. Adoption**

The salary schedule, reflecting both grade level and step, as approved by the Board of Commissioners is hereby adopted as the pay plan for Scotland County. Adjustments to the pay plan shall occur annually with the adoption of the Budget Ordinance. Any adjustment to the pay plan shall apply to the Board of Commissioners as well as to County employees.

### **Section 2. Maintenance**

The County Manager shall be responsible for the administration and maintenance of the pay plan. The pay plan is intended to provide equitable compensation for all positions when considered in relation to each other, reflecting differences in duties and responsibilities, the comparable rates of pay for positions in private and public employment in North Carolina, changes in the cost of living, the financial conditions of the County, and other factors. The County Manager, or designee, shall, from time to time, make comparative studies of all factors affecting the level of salary ranges and shall recommend to the Board of Commissioners such changes in salary ranges as appear to be warranted.

### **Section 3. Administration**

The pay plan shall be administered in a fair and systematic manner in accordance with work performed. The pay structure shall be externally competitive, shall maintain proper internal relationships among all positions based on relative duties and responsibilities, and shall recognize performance as the basis for pay increases within the established pay range. The plan shall meet the requirements of the State Competitive System for local government employees while maintaining a countywide plan.

The County Manager is authorized by the Board of Commissioners to approve salary adjustments up to two steps based on performance evaluations and up to four steps for employment required certifications. These adjustments must not exceed the assigned range of the position. Any such adjustments based solely on performance are to be reported to the Board of Commissioners at the next regularly scheduled meeting. Any request for reclassification will be reviewed by the County Manager for approval to recommend such request to the Board of Commissioners.

### **Section 4. Hiring Rate/Starting Salary**

Employees will usually be hired at the minimum (Step 2) of their assigned salary grade. Appointments above the hiring rate may be made only by the County Manager when deemed necessary to the best interests of the County, based on such factors as superior qualifications of the applicant, a shortage of qualified applicants available at the hiring rate or the inability to recruit qualified applicants to accept employment at the minimum step.

### **Section 5. Salary Upon Completion of Probationary Period**

Upon the successful completion of the initial probationary period and/or completion of training period following a promotion, an employee hired initially at the minimum step of the assigned range may receive an increase to the next step in the assigned range, subject to the approval of the County Manager. An employee hired at a salary above the minimum step may be considered for a step increase only as approved by the County Manager.

### **Section 6. Payment at a Listed Rate**

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

B. When an employee attains the maximum rate of a salary range for his or her present position, no further salary increase will be received unless the position is reclassified, the employee is promoted to another position with a higher salary range, or the salary for the present position is increased.

### **Section 7. Trainee Salaries**

An applicant hired, or an employee promoted to a position in a higher class, who does not meet all the established requirements of the position, shall be appointed with the approval of the County Manager at a pay rate of no more than one step below the minimum salary. Employees subject to the State Personnel Act will be designated "trainees" in accordance with rules and regulations established by the Office of State Personnel. All other County employees shall be designated "trainees" based upon recommendations of the department head with the approval of the County Manager. An employee in a trainee status shall continue to receive a reduced salary until the appointing department head and the County Manager determine that the trainee is qualified to assume the full responsibilities of the position.

### **Section 8. Pay Rates in Promotion, Demotion, Transfer, Reclassification and Reinstatement**

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

1. An employee who is promoted to a position in a higher grade shall receive at least the minimum rate of the higher grade. If the employee's previous experience warrants, the salary may be adjusted higher with the approval of the County Manager, subject to the availability of funds, provided that the adjusted salary does not exceed the maximum of assigned range. In some cases a promotion or reclassification represents a significant change in the nature of work and an immediate salary increase may not be appropriate or equitable. In these cases the County Manager must approve the failure to award a salary increase upon promotion.

2. If an employee is demoted as a result of a reclassification, and the employee's current salary falls above the maximum of the range for the lower class, the employee's salary will

remain the same until general schedule adjustments or range revisions bring it back within the lower range. If an employee is demoted for cause, the employee's salary will be reduced to any step in the lower salary range as long as the reduced salary does not fall below the minimum salary rate of that range.

3. Whenever an employee applies for and is appointed to a position in another department and that position is in the same pay grade, this is considered a lateral transfer, and the employee normally shall receive the same pay rate. Previous experience or the nature of the duties of the new position may warrant a higher starting pay with the approval of the County Manager, subject to the availability of funds.

If an employee applies for and is appointed to a position in another department and that position is in a higher pay grade, this is considered a promotion and subject to the provisions of #1 of this section.

4. When a reclassification occurs and an employee's position is reclassified to a class having a higher salary range, the employee's salary shall be increased to at least the minimum step of the new pay range. If the employee's previous experience warrants, the salary may be adjusted higher with the approval of the County Manager, subject to the availability of funds, provided that the adjusted salary does not exceed the maximum of assigned range

5. When an employee is reinstated in a position of the same class after separation from the County of not more than one year, and when the separation was not due to discreditable circumstances, the employee may receive at least the same rate of pay as at the time of separation, plus any across-the-board pay increases given prior to reinstatement.

#### **Section 9. Pay After Employment Required Certification(s)**

An employee who is required to achieve specific certification(s) in order to maintain his/her employment, as defined in the job description, shall receive a salary increase of one step upon documentation of completed certification(s) and approval of the County Manager, to be effective during the next pay period. Other certifications must be reviewed and approved by the County Manager before the certification course work begins.

#### **Section 10. Pay for Temporary Assignment**

When the necessity arises for an employee to temporarily assume the responsibility of another position in a class recognized at a higher grade for a period of more than thirty (30) calendar days approval of assignment shall be obtained from the County Manager prior to assignment. The employee shall be compensated for the entire period of the temporary assignment at the minimum of the regular rate assigned the higher class. If the employee's previous experience warrants, the salary may be adjusted higher with the approval of the County Manager, subject to the availability of funds, provided that the adjusted salary does not exceed the maximum as assigned range. When the responsibilities to be assumed are the County Manager's, increased payment shall be approved by the Board of Commissioners.

#### **Section 11. Pay for Part-time Work**

The pay plan established by this policy is for full-time service. An employee appointed for less than full-time service will be paid a pro-rated amount determined by converting the established

salary for the position to an hourly rate or a rate that has been negotiated between the employee and the County.

## **Section 12. Overtime**

A. The County abides by all applicable sections of the Fair Labor Standards Act, as amended. The County will properly record all applicable overtime accrued for each covered employee. This overtime policy is applicable only to employees of Scotland County who are “Non-Exempt” under the Fair Labor Standards Act.

B. Employees are expected to work during all assigned periods exclusive of breaks or mealtimes. Employees are not to perform work during breaks or at any time that they are not scheduled to work unless they receive approval from their immediate supervisor, department head or the County Manager, except in cases of emergency. An emergency exists if a condition arises that could reasonably result in damage to property or persons or that requires the immediate attention of the employee. Employees who work excess hours because of an emergency shall advise their immediate supervisor of the overtime worked as soon as practical following completion of the work.

Based upon the provisions of the Fair Labor Standards Act, non-exempt employee work that has not been requested by management but is endured or permitted is considered work time. Therefore, when an employee voluntarily works prior to or after his regularly scheduled work day, and it is endured or permitted, it is considered overtime hours when in excess of forty (40) hours in the work-week, although the work had not been specifically authorized.

Department heads are responsible for ensuring that overtime hours are authorized, recorded, and properly documented for compensatory time off or overtime pay in accordance with the established record keeping forms and instructions.

C. Computation for overtime will include **actual work hours** over and above the standard work hours for a seven (7) day work period for non-law enforcement and non-emergency service employees.

D. Computation for overtime will include actual work hours over and above 171 hours for a 28-day work period for law enforcement employees (Deputies and Jailers).

E. Sick leave, holidays and vacation time off in a work period will not count toward computing overtime hours except for emergency service employees on a fluctuating work week..

F. It is the policy of the County, in agreement with its employees, that *non-exempt* employees receive compensatory time off, in lieu of cash payments, **in accordance with the provisions of the Fair Labor Standards Act.** Any unused accrued comp time balance will be paid out at termination of employment for non-exempt employees.

G. Exempt employees, other than Department Heads, may receive compensatory time off at an equal amount for each hour of overtime worked and may accrue not more than 120 hours. Department Heads are not eligible for compensatory time. No compensatory time balance will be paid to exempt employees at termination of employment or otherwise. All comp time balances in excess of 120 hours will be dropped from the payroll system on June 30<sup>th</sup> of each year.

H. Under FLSA rules, nonexempt employees who work in public safety activities, emergency response activities, or seasonal activities may accrue not more than 480 hours of compensatory time for overtime hours worked after April 15, 1986. However, it is the policy of the County that all nonexempt employees may accrue not more than 240 hours of compensatory time for

overtime hours worked after April 15, 1986, including employees in public safety, emergency response, or seasonal activities.

I. Employees wishing to use accrued compensatory time must make a written request to their immediate supervisor. Use of such time will be allowed within a reasonable period following the request as long as the use does not unduly disrupt the operations of the county. Department heads will be responsible for administering their compensatory policies by allowing employees to take accrued compensatory time in a timely manner so that compensatory will not accrue to excessive levels. In situations in which compensatory time off is not practical, employees may receive monetary compensation subject to the approval of the County Manager.

J. During times of State of Emergency, as declared by the Chairman of the Board of Commissioners, non-exempt employees will receive monetary compensation for overtime hours worked rather than compensatory time. Exempt employees, other than Department Heads, will be treated as non-exempt employees. Department Heads will be compensated for overtime hours worked on an hour for hour basis (straight time). The department head may authorize an adjusted workweek to avoid or reduce overtime.

K. As Scotland County is considered a "host county", there may be situations when the County has not been declared to be in a State of Emergency, but is ordered to open shelters to accommodate evacuees from other counties. Employees, including those who are normally exempt from overtime, who are assigned to shelter duty during such an emergency situation will be paid overtime as described in Part J above. Hours worked at the shelter shall be recorded as work time. The department head may authorize an adjusted workweek to avoid or reduce overtime.

### **Section 13. Payroll Deductions**

Federal and state income taxes, Social Security tax, and retirement contributions shall be deducted as authorized by law and the Board of Commissioners. Any other payroll deduction must be approved by the Board of Commissioners.

### **Section 14. Payroll Procedure**

A. All employees shall be paid on a monthly basis, with the last calendar day of the month as the designated payday. If payday falls on a Saturday, a Sunday, or a holiday, employees will be paid on the last banking day before the nonworking day.

B. The payroll period will be monthly from the sixteenth of one month to the fifteenth of the next month. New employees beginning employment on the first of the month will only be paid a partial month, from the first to the fifteenth, for the first pay period. Thereafter they shall be paid monthly from the sixteenth to the fifteenth.

### **Section 15. Termination Pay**

Upon termination of employment, an employee is entitled to payment in the regularly scheduled pay period for regular pay. However, employees who resign without proper notification may be subject to withholding of the final paycheck for up to ten (10) working days to allow verification of any necessary deductions.

Unused annual leave, up to a maximum of 240 hours, less any deductions for debts outstanding against the County shall be paid in the next pay period or within fifteen (15) working days, whichever is longer. No special checks will be written for termination pay. No sick leave or personal leave shall be paid upon termination of employment. The finance office shall deduct and withhold from the final paycheck any amount owed the County, such as group insurance premiums, uniforms, or advanced leave.

No severance pay will be allowed under any circumstances except as authorized by the Board of Commissioners.

**Section 16. Effective Date of Salary Adjustments**

Salary adjustments shall become effective on the date of the actual adjustment.

**Section 17. Longevity Pay**

Longevity pay is to recognize **continuous** service of regular, full-time and part-time employees working at least thirty-two (32) hours per week. Longevity pay is an automatic, annual payment made in a lump sum in November, subject to availability of funds, to employees who meet the eligibility requirements on July 1 of each year. If an eligible employee retires, resigns, dies or is otherwise separated on or after July 1, the payment shall be made to the employee or to the estate, if deceased. All payments are subject to income taxes, FICA taxes and the Local Governmental Employees Retirement System. The Scotland County Finance Officer shall be responsible for determining and certifying the length of qualifying service of each employee and for initiating the necessary steps for payment. Annual longevity pay is based on the following:

<u>Years of Continuous County Service</u>	<u>Longevity Pay Rate</u>
5 years but less than 10	\$200.00
10 years but less than 15	\$325.00
15 years but less than 20	\$450.00
20 years but less than 25	\$575.00
25 years or more	\$700.00

To be eligible to receive longevity pay the employee must meet the following requirements:

- A. An employee must have served five or more continuous years of regular employment with the County;
- B. The employee must have a regular appointment;
- C. Credit for the service requirement shall not be given for temporary full-time or temporary part-time employment.

D. County service is the time for regular, trainee, and probationary employment. If an employee is in pay status through working, using annual or sick leave, drawing workers' compensation, or on authorized military leave for one-half or more of the regularly scheduled workdays in a month, credit shall be given toward qualifying service;

E. Regular, part-time employees working at least thirty-two (32) hours per week will receive longevity pay in proportion to the number of hours regularly scheduled to work.

F. If an employee leaves the employment of the County, the employee is ineligible for continued longevity pay.

## **ARTICLE IV. RECRUITMENT AND SELECTION STANDARDS**

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

It is the policy of the County to maintain a systematic, consistent recruitment program, to promote equal employment opportunities, and to identify and attract the most qualified applicants for employment with the County. This policy is to be achieved by announcing all position vacancies, by evaluating all applicants using the same criteria, and by applying testing methods through the Local Job Service Office (Employment Security Commission) as applicable. Selection decisions are made without regard to race, color, religion, sex, national origin, political affiliation, non-disqualifying handicap, or age.

### **Section 2. Recruitment-Responsibility of the Personnel Director**

The Personnel Director is responsible for an active recruitment program to meet current and projected staffing needs, using procedures that will ensure equal employment opportunities based on job-related requirements. Recruitment efforts of the Personnel Department and all county departments will be coordinated in a timely manner.

### **Section 3. Position Vacancy Announcements**

The County Manager must approve the posting of a position vacancy announcement prior to the posting. Vacant regular full-time or part-time permanently established positions to be filled will be publicized by the County to permit an open opportunity for all interested employees and applicants to apply.

- (a) Vacancies which will be filled from within the agency workforce will be prominently posted in an area known to employees, and will be described in an announcement which includes at minimum the title, salary range, key duties, knowledge and skill requirements, minimum training and experience standard, and contact person for each position to be filled. The application period for internal postings will be no less than five work days. An exception to this posting requirement will be permissible where a formal, pre-existing "understudy" arrangement has been established by management.
- (b) Any vacancy for which an agency wishes to consider outside applicants or outside applicants concurrently with the internal workforce shall be listed with the local Job Service Office of the Employment Security Commission. Listings will include the appropriate announcement information and vacancies so listed shall have an application period of not less than seven work days.
- (c) If an agency makes an effort to fill a vacancy from within, and is unsuccessful, the listing with the Employment Security Commission would take place when the decision is made to recruit outside. A vacancy which an agency will not fill for any reason shall not be listed; if conditions change, it should then be treated as a new vacancy.

### **Section 4. Application for Employment**

All persons applying for employment with the County shall be required to complete State Application form PD-107. The location for receiving applications will be stated on each job

vacancy announcement. All information provided on the application must be true and correct with the provision of false statements being grounds for elimination from consideration and/or dismissal from County employment.

**Section 5. Applicant Tracking**

The Personnel Department shall be responsible for maintenance of permanent records of all position vacancy announcements, including posting and closing dates, all optional referral sources used in the recruitment process, and the pool of applicants considered for each vacancy.

**Section 6. Qualification Standards**

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

B. All appointments shall be made on the basis of merit.

C. Consideration may be given to “trainee” appointments when there is an absence of qualified applicants from which to make a selection. In this instance the deficiencies may be eliminated through orientation and on-the-job training, and the employee is designated a trainee by the County Manager (for employees in County General Positions) or the Office of State Personnel (for employees in all positions subject to the State Personnel Act).

D. When qualified applicants are unavailable and there is no trainee provision for the vacant classification, an appointment may be made below the level of the regular classification in a work-against appointment, allowing the appointee an opportunity to gain the qualifications needed for the full class through on-the-job experience. The work-against appointment is available for competitive service employees. The appointee must meet the minimum education and experience standard of the class to which the appointee was initially appointed. A work-against appointment may not be made when applicants are available who meet the education and experience requirements for the full class of the position in question.

**Section 7. Selection**

Department heads shall develop, use, and document, on a consistent, routine basis, a selection process that best suits the county’s needs in filling positions within each agency or department. All selection methods developed and utilized by the department head shall be valid measures of job performance.

**Section 7.5 Residency Requirement**

Effective July 9, 2007, there are certain County positions that are required to be and remain permanent residents of Scotland County. These positions are: County Manager, Assistant County Manager, Clerk to the Board, Emergency Management Director, Social Services Director, and Health Director. A person newly appointed or employed into either of these

positions will have six months from the date of the appointment or employment to establish permanent residency within Scotland County. If a current County employee is living outside Scotland County, and he/she is promoted to a position subject to this policy, they must relocate to Scotland County within six months. It shall be the responsibility of each employee filling a position subject to this policy to furnish and provide information and documentation to the County Manager to establish the employee's compliance with this policy. Failure to become a resident of the County within the time allowed, unless a specific waiver is granted by the Board of County Commissioners, will be grounds for termination.

## **Section 8. Appointments**

The selection and appointment of persons to all positions other than those subject to the State Personnel Act shall be by the action of the department head, with the approval of the County Manager. The County Manager will determine the class and the salary of new employees. The selection and appointment of persons to all positions subject to the State Personnel Act shall be by the action of the appointing authority with the County Manager determining the salary of new employees.

A. Before any applicant begins work, the department head, or agency director where applicable, shall meet with the Personnel Director to discuss the appointment. The Personnel Action Form, the original application for employment, test score sheets (when applicable), and any additional supporting documents shall be reviewed by the Personnel Director.

B. Criminal Background checks will be required prior to offer of employment. If the duties of the position include operation of county-owned or county-insured vehicles, the department head will, before issuing an offer of employment, conduct a review of the driving record of the person to be hired, which record will become a part of the personnel file. Also, periodic driver history reviews may be conducted throughout the period of employment.

C. The Sheriff and the Register of Deeds shall have authority over appointments in their respective departments, with the County Manager determining the class and the salary of new employees.

D. The Board of Commissioners must approve the appointment by the Sheriff or the Register of Deeds of a relative by blood or marriage of nearer kinship than first cousin or of a person who has been convicted of a crime involving moral turpitude.

## **Section 9. Types of Appointments and Duration**

### **(a) Probationary Appointment:**

- (1) An employee appointed to a regular position shall serve a probationary period. The appointing authority shall have the option of requiring an additional probationary period for employees who have been promoted, demoted, or transferred to another position. This period is an essential extension of the selection process, and provides the time for effective adjustment of the new

employee or elimination of those whose performance will not meet acceptable standards.

- (2) The length of the probationary period shall not be less than three months nor more than nine months, except for law enforcement officers, who may serve up to a twelve month probationary period. The length is dependent upon the complexity of the position and the rapidity of progress made by the particular individual in the position.
- (3) Any employee serving a probationary period following **initial** appointment may be dismissed **without appeal rights** at any time during the probationary period. The employee must be given notice of dismissal, including reasons. Following successful completion of the initial probationary period, the employee may be dismissed only as provided in Article VIII.
- (4) Annual, Sick, or Personal leave is not granted during the first three (3) months of employment. Any absence during this period will be leave without pay, with the exception of leave due to the death in the employee's immediate family (as defined in Article I, Section 3) not to exceed three (3) days for any one occurrence. Probationary employees who are separated from employment, either voluntarily or involuntarily, will forfeit any accrued annual leave.
- (5) The time an employee is on approved leave without pay during the employee probationary period may be added to the maximum time of nine (9) months (maximum of twelve months for Law Enforcement employees), as well as to the minimum time of three (3) months.
- (6) Employment in a temporary appointment may be credited toward the probationary period at the discretion of the appointing authority. Employment in an PRN or emergency appointment shall not be credited toward the probationary period.

(b) **Trainee Appointment**

- (1) A trainee appointment may be made to a position in any class for which the specification includes special provisions for a trainee progression leading to a regular appointment. An individual may not be appointed as a trainee if he/she possesses the acceptable training and experience for the class.
- (2) The specification for each class in which a trainee appointment is authorized will define the minimum qualifications for the trainee appointment and the minimum qualifications for a regular probationary appointment. It is expected that the individual will progress through supervised experience to a minimum level of satisfactory performance in the position during a period of time indicated by the difference between the amounts of experience required for the two types of appointments. An employee may not remain on a trainee appointment beyond the time he meets the educational and experience requirements for the class. After the employee has successfully completed all educational and experience requirements he/she shall be given probationary or regular status in the position or shall be separated.

(c) **Regular Appointment:** An appointment to a permanently established position when the incumbent is expected to be retained on a regular basis. Regular appointments follow the satisfactory completion of a probationary and/or trainee appointment, or may be made upon the reinstatement of a qualified employee.

(d) **Time-Limited Appointment:** A time-limited appointment may be made to:

- (1) A permanent position that is vacant due to the incumbent's leave of absence and when the replacement employee's services will be needed for a period of one year or less, or
  - (2) To a permanent position that has an established duration of no more than two years. Such appointment shall not be made for less than six months. If at the end of the two-year time-limited appointment, the work is expected to continue and the position becomes permanent, the employee should be given a regular appointment. A time-limited appointment is distinguished from a temporary appointment by the greater length of time, and from the regular appointment by its limited duration.
- (e) **Temporary Appointment:** A temporary appointment may be made to a permanent or temporary position. The appointment shall be limited to a maximum duration of twelve months.
  - (f) **Pre-Vocational Student Appointment:** This appointment is to be used to enable students to gain practical knowledge of their particular occupational area of interest. A suitable plan for training under close supervision must be developed for the individual. In the case of a co-operative, work-study, internship, or similar appointment, the time schedule for work must be determined. The basis for eligibility and selection for such an appointment shall be outlined in a formal plan developed by the participating agencies for each type and level of student involvement. Upon successful completion of their training, individuals may be considered for any vacant position for which qualified.
  - (g) **Emergency Appointment:** An emergency appointment may be made when an emergency situation exists requiring the services of an employee before it is possible to identify a qualified applicant through the regular selection process. When it is determined that an emergency appointment is necessary, all other requirements for appointments will be waived.
  - (h) **Work Against Appointment:** When qualified applicants are unavailable and there is no trainee provision for the classification of the vacancy, the appointing authority may appoint an employee below the level of the regular classification in a work-against situation. A work-against appointment is for the purpose of allowing the employee to gain the qualifications needed for the full class through on-the-job experience. The appointee must meet the minimum training and experience standard for the class to which initially appointed. The employee's salary will be assigned to the range for the class to which initially appointed and the salary will be adjusted incrementally, as approved by the County Manager, as the employee meets the minimum qualifications for the established position. A work-against appointment may not be made when applicants are available who meet the training and experience requirements for the full class, and for the position in question. The Department Head is to provide a detailed work-against progression plan for the County Manager's approval prior to the offer of employment.

## **Section 10. Promotion**

Candidates for promotion shall be chosen on the basis of their qualifications. First consideration for filling positions shall be given to employees already in service with the county. If a current employee is chosen for promotion, the department head shall forward the request to the County Manager with recommendations for classification and salary along with reasons for selecting the

employee over other applicants. After considering the department head's recommendation, the County Manager shall confirm or reject the appointment. If the County Manager confirms the appointment, he or she shall determine the starting salary for the employee.

**Section 11. Demotion**

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

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

**Section 12. Transfer**

If a vacancy occurs and an employee eligible for transfer from another department wishes to be considered for the appointment, a written request and application must be forwarded to the Personnel Director during the recruitment period for the position. The request for transfer shall be subject to approval of the County Manager. Any employee transferred without having requested it may appeal the action in accordance with the grievance procedure in Article IX.

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

### **Section 1. Work Week**

The standard workweek for all employees of the various departments of the county, with the exception of law enforcement, emergency medical service personnel, and communications, shall begin at 5:01 pm on Friday and will run through 5:00 pm on the subsequent Friday. The standard workweek for law enforcement, emergency medical service, and communications personnel shall be Monday – Sunday. Department heads shall work the hours necessary to ensure the satisfactory performance of their departments. Office hours for all County departments, except the Sheriff's Department and EMS, shall extend from 8:00 a.m. until 5:00 p.m. on Monday through Friday. When the activities of a particular department require some other schedule to meet work needs, the County Manager may authorize a deviation from the normal schedule. In case of disaster or emergencies, work schedules may have to be altered and overtime may be required.

There are some positions in the County that require employees to be “on-call”. On-Call time is time spent by employees, usually off the working premises, in their own pursuits where the employee must remain available to be called back to work on a short notice if the need arises. In these instances, the requirement for the employee to be on-call will be listed in the job description and will be considered a condition of employment.

### **Section 2. Gifts and Favors**

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

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

C. Gratuities shall be refused by all county officials and employees.

### **Section 3. Political Activity Restricted**

A. Every employee of Scotland County has a civic responsibility to support good government by every available means and in every appropriate manner. Any employee may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, and may advocate and support the principles or policies of civic or political organizations in accordance with the constitution and the laws of the state of North Carolina and the constitution and the laws of the United States of America. However, while on duty, no employee of Scotland County shall:

1. engage in any political or partisan activity;
2. use official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;
3. be required as a duty or a condition of employment, promotion, or tenure of office to contribute funds for political or partisan purposes;

4. coerce or compel contributions for political or partisan purposes by another employee of the County; or;
5. use funds, supplies, or equipment of the county for political or partisan purposes.

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

C. Any violation of this section may subject the employee to disciplinary action, up to and including dismissal.

#### **Section 4. Unlawful Workplace Harassment**

**Purpose:** The purpose of this policy is to establish that Scotland County prohibits unlawful workplace harassment of County employees, and to require that every County Department comply with these established policies and programs to ensure that work sites are free from unlawful workplace harassment. This policy also prohibits retaliation against employees.

**Policy:** The policy of Scotland County is that no County employee may engage in conduct that falls under the definition of unlawful workplace harassment indicated below. All employees are guaranteed the right to work in an environment free from unlawful workplace harassment and retaliation.

**Definitions:** (a) **Unlawful Workplace Harassment** is unwelcomed or unsolicited speech or conduct based upon race, sex, creed, religion, national origin, age, color, or handicapping condition as defined by G.S. 168A-3 that creates a hostile work environment or circumstances involving quid pro quo.

(b) **Hostile Work Environment** is one that both a reasonable person would find hostile or abusive and one that the particular person who is the object of the harassment perceives to be hostile or abusive. Hostile work environment is determined by looking at all of the circumstances, including the frequency of the allegedly harassing conduct, its severity, whether it is physically threatening or humiliating, and whether it unreasonably interferes with an employee's work performance.

(c) **Quid Pro Quo** harassment consists of unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.

(d) **Retaliation** is adverse treatment which occurs because of opposition to unlawful workplace harassment.

*Advisory Note: Sexual Harassment does not include personal compliments welcomed by the recipient, or social interaction or relationships freely entered into by County employees or prospective employees.*

*Advisory Note: The U.S. Supreme Court recently held “that nothing in Title VII necessarily bars a claim of discrimination ‘because of ...sex’ merely because the” grievant and the alleged harasser “are of the same sex”.*

*Advisory Note: Hostile includes offensive, aggressive, antagonistic, belligerent, and/or contentious behavior involving unlawful workplace harassment based on age, sex, race, color, national origin, religion, creed, or handicapping condition as defined by G.S. 168A-3. A hostile work environment is determined by looking at the following: 1) whether the environment is objectively offensive in the eyes of a reasonable person, 2) whether the environment is subjectively offensive in the eyes of the person who is the object of the alleged harassment, and 3) the nature on the alleged hostility.*

*Advisory Note: Conduct towards an outside vendor or contractor that would constitute unlawful workplace harassment toward an employee could constitute unacceptable personal conduct.*

*Advisory Note: Examples of quid pro quo unlawful workplace harassment include:*

- 1. A supervisor promises an employee a promotion if the employee acquiesces to sexual advances.*
- 2. A supervisor begins each staff meeting with a prayer session conducted by a Christian minister. A Jewish employee refuses to participate in the prayer session and is terminated because of the refusal.*

**Coverage:** Former employees, full-time or part-time employees with either a permanent, probationary, trainee, time-limited permanent or temporary appointment.

*Advisory Note: While applicants are not covered under the State Statute (SB78), they are covered under other State and Federal Civil Rights Acts.*

**Grievance Procedures and Appeals:** Grievant must submit a written complaint through the County’s Grievance Procedure (Article IX) or directly with the Personnel Director within 30 calendar days of the alleged harassing action. The Department Head or the Personnel Director, whichever is applicable, will conduct an investigation and shall take appropriate remedial action within 60 calendar days from receipt of written complaint. The County shall provide a written response to the grievant when it is determined what action, if any, will result from the grievant’s written complaint. After the 60 calendar day response period has expired, employees subject to the State Personnel Act may appeal directly to the Office of Administrative Hearings and the State Personnel Commission within 30 calendar days if not satisfied with the County’s response to complaint.

*Advisory Note: A grievant has a right to file a simultaneous complaint under Title VII with the Equal Opportunity Commission (EEOC).*

*Advisory Note: An employee subject to the State Personnel Act with a grievance concerning a denial of employment, promotion, training, or transfer, or concerning a demotion, layoff, transfer or termination due to discrimination based on age, sex, race, color, national origin, religion, creed, political affiliation or handicapping condition as defined by G.S. 168A-3, or a*

*grievance based on retaliation for opposition to alleged discrimination may still appeal directly to the Office of Administrative Hearings and the State Personnel Commission.*

#### **Section 5. Outside Employment**

The work of the County takes priority over other employment interests of employees. All outside employment for salaries, wages, or commission and all self-employment must have prior written approval from the employee's department head before such work is to begin. The department head and the County Manager will determine whether the outside work would create a conflict of interest or otherwise be incompatible with County service. The assumption of outside employment without prior approval by the County may be deemed improper conduct and subject the employee to disciplinary action, up to and including dismissal.

Employees who are out of work under the provisions of the Family Medical Leave Act (FMLA), Worker's Compensation or Leave Without Pay for sick leave purposes are prohibited from engaging in any outside employment during the period of leave.

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

The employment of immediate family within the same department or work unit is to be avoided unless significant recruitment difficulties exist. If there are fewer than three (3) other applicants eligible for a vacancy and it is necessary for relatives to be considered for employment or if two individuals are already employed and marry, the following will apply:

- A. No two members of an immediate family shall be employed within the same department if such employment may result in one member supervising the other or in one member occupying a position that has influence over the other's employment, promotion, salary administration, or related management or personnel considerations.
- B. The provisions of this section shall not be retroactive, and no action will be taken concerning members of the same family employed in conflict with Subsection A before the adoption of this policy.
- C. The Board of Commissioners shall approve the appointment by the Sheriff or the Register of Deeds of a relative by blood or marriage of nearer kinship than first cousin.

#### **Section 7. Travel Expense and Reimbursement Policy**

A. Policy Statement: The intent of this policy is to make uniform provisions for reimbursement of necessary expenses of county employees, commissioners, other designated board members and officials who are required to travel within or outside the county boundaries in the performance of their duties and in the interest of county affairs.

B. Policy Administration: The respective Department Heads are responsible for the administration of the provisions of this policy and authorized to approve travel reimbursements contingent upon the availability of funds in the department budget and subject to review by the

County Finance Officer and/or the County Manager except where otherwise stated. The County Manager and/or the County Finance Officer must approve any expense exceeding or anticipated to exceed \$1,000. Reimbursement will be for actual expense up to the limitation contained in this policy, except for the mileage allowance.

**Comment [VGC1]:** Suggestion: Any expense exceeding \$ \_\_\_\_\_ (or anticipated to exceed \$ \_\_\_\_\_) must be approved by the County Manger and/or the County Finance Officer.

C. Definitions:

1. Necessary Expense - All reasonable charges incurred by a county employee, caused by travel in the interest of the county; including transportation, lodging, meals, and related incidental expenses. It does not include fines, illegal expenses, laundry charges, snacks, tobacco products, alcoholic beverages, movies or recreational fees for an activity not a part of the conference, or similar personal expenses.

2. Mileage Allowance - The amount authorized to be paid on a per-mile basis for travel by privately owned vehicle. The mileage allowance will be at the standard mileage rate published by the Internal Revenue Service, as of the date of travel. Reimbursement will be based on odometer readings.

3. Travel Statement - A form provided for the traveler to fill out monthly for travel prescribed by the Department Head; which lists all mileage, private or public transportation, lodging, meals, and other expenses which are reimbursable. Original receipts are to be attached to and made a part of the travel statement. The Travel Statement forms must bear the approving signature of the appropriate Department Head and the employee.

4. Transportation Cost of Employee - Payment of mileage allowance or actual cost of public transportation as applicable.

5. Employee - A full or part time employee of Scotland County, the County Attorney, individual, County Commissioners or a member of one of the following designated boards; Social Services Board, Board of Health, Board of Elections and Soil & Water Conservation Board.

6. Department Head - Includes all designated department heads and includes the Chairman of the Board of County Commissioners as the department head for County Commissioners.

D. Authorized Travel Modes:

1. County-owned Vehicle - This method of transportation is to be used whenever a county vehicle is available. The Department Head, in unusual circumstances, may authorize exact operation expenses for reimbursement, where direct credit charges cannot be made to the county and county gas, etc. are not available.

2. Privately owned Vehicle - When no county vehicle is available, this mode may be used if specifically authorized by the appropriate Department Head. Reimbursement for operation expenses will be limited to the mileage allowance.

3. Public Transportation - When no county vehicle is available, public transportation may be authorized by the Department Head. Reimbursement will be for actual cost incurred.

E. Types of Travel and Reimbursement Authorized:

1. Local Travel - County employees, who by the normal nature of their duties, are required to travel regularly within the county using their personal vehicle and are individually authorized by the appropriate Department Head, are eligible for reimbursement for transportation expense. Any Commissioner or Board member receiving a stipend shall not be paid local travel when that travel is associated with the duties of that board.

2. Special Local Travel - County employees, who, in the interest of the county, and with Department Head approval, travel to training sessions, conferences, meetings etc. within the county, may be reimbursed for:

- (a) Transportation cost
- (b) Meals that are in connection with or are part of the travel, meetings, etc.

3. Travel Outside the County - Approved travel expenses outside the county for county purposes or purposes in the best interest of the county, for training, conferences, professional meetings, etc. may be reimbursed with Department Head approval to the limits of the policy, for:

- (a) Transportation cost
- (b) Meals
- (c) Lodging

4. Extraordinary Travel or Cost - In instances of travel not covered by this policy, or where the actual necessary costs exceed the maximum reimbursement allowed (example - only available lodging cost caused expenses above the maximum allowance) and the travel is in the best interest of the county; the Department Head may approve reimbursement of actual cost beyond the maximums stated herein. The County Manager will approve or disapprove all other expense reimbursements not clearly defined in this policy, or which have been questioned.

5. Travel outside of North Carolina must be authorized by the department head, with approval by the County Manager. A written request for travel must describe the travel requested, the purpose of the proposed trip, and the period away from the County.

F. Travel Procedure:

1. The appropriate Department Head has the responsibility to determine, from this policy, whether the proposed travel is eligible for reimbursement of expenses.

2. The Department Head must approve or direct the travel and approve the mode of transportation.

3. If the trip is eligible for a travel advance, the employee will make a written request at least two weeks in advance, to allow the request to be processed and a check issued.

4. Department Head approves (or disapproves) travel advance request and forwards to Finance Officer for payment.

5. Travel is performed.

6. A travel statement is completed by employee, approved by the Department Head and forwarded to Finance Officer for settlement.

G. Travel Advance:

For "Travel Outside the County" and "Extraordinary Travel" county employees may receive advances for travel expenses, to avoid personal inconvenience or hardships. The employee must make a request in writing, using the approved Advance Travel Request form, estimating the travel cost, to the Department Head who will approve as being proper under this policy and forward to the Finance Officer in sufficient time for processing. The Finance Officer will issue a check in the amount of the approved estimate, to the employee.

Immediately upon completion of the travel, the employee will present an approved travel statement to the Finance Officer and return any money advanced in excess of the actual expenses approved on the travel statement to the Finance Officer. Any amount advanced and subject to return to the county, which is not promptly refunded, will be deducted from the employee's next

payroll. In the event that an employee does not turn in his/her receipts within two pay periods the entire travel advance will be deducted from their paycheck.

H. Meals:

Meals consumed by County employees, as well as the tips thereon, will be reimbursed based upon the actual cost incurred by the employee, (excluding meals for unauthorized guests). If a meal is provided as part of the registration fee, paid by the County, no additional reimbursement will be made for that meal. Limits on meal reimbursement are the simplified method for substantiating travel allowances for meals and incidental expenses, as published by the U.S. Department of Treasury. This amount is a limit and not a per diem. All travel shall be determined to be to a low-cost locality, unless the U.S. Department of Treasury has classified the destination as a high-cost locality.

**Section 8. Use of County Property**

County-owned property, including supplies, tools, materials, equipment, and vehicles is intended for official County business only and not for personal use. County property should not be removed from County premises except in the conduct of official County business.

A. All personnel are personally and financially responsible for all County property, including leased property, issued to them in the course of their employment. This includes, but not limited to keys, radios, uniforms, phones, automobiles, etc. If an employee loses or willfully or negligently damages County property, they will reimburse the County for those damages. If the property is stolen, a copy of the police report must be turned in to the department head, to avoid being charged for the equipment. If the employee does not turn in all property at their exit conference, when leaving County employ, the costs will be withheld from the last payroll check.

Any employee losing a key or failing to turn in a key during their exit conference will be charged the cost of re-keying any locks necessary to maintain the security of County personnel, information, or property. This policy applies to individual and master keys. The loss of any key should be reported to the department head immediately.

B. Personal use of the State Network long distance telephone service is prohibited.

C. The County Manager must approve any exceptions to the use of County-owned property.

D. The County Manager, or his/her designee, is authorized to develop and enforce Administrative Policies and Procedures governing the use of County Property.

**Section 9. Age Limitations**

The minimum age for employment with the County is eighteen (18) for all positions. Exceptions to the minimum age are provided for under the law if the applicant procures an employment certificate from the NC Department of Labor. Minors may be employed on a Part-Time, Seasonal, or Intern basis, subject to the approval of the County Manager. The County does not have a mandatory retirement age.

### **Section 10. Solicitation**

Employees are prohibited from participating in any type of solicitation during work time. Solicitation may occur during breaks, lunch, and before and after work if done on a strictly volunteer basis. Solicitation must be conducted in such a way that no employee feels pressure to participate. Solicitation includes selling items for fund raising or for personal profit.

### **Section 11. Safety**

The County Manager shall appoint a safety committee composed of representatives from various departments. This committee will coordinate safety efforts within County Government and make recommendations to the department heads and/or the County Manager concerning safety practices and reporting. The County Manager is authorized to develop and enforce Administrative Safety Policies and Procedures as approved by the Board of Commissioners.

### **Section 12. Smoking Policy**

Smoking, meaning inhaling, exhaling, burning or carrying any lighted cigar, cigarette, or other combustible tobacco product in any manner or in any form, is prohibited in buildings owned by Scotland County in accordance with *Scotland County Smoking Control Rules* adopted and revised by the Scotland County Board of Health and the Scotland County Board of Commissioners.

### **Section 13. Concealed Weapons**

Ordinance #25, adopted by the Scotland County Board of Commissioners on November 06, 1995, prohibits the carrying of concealed handguns on Scotland County premises.

### **Section 14. Testing**

Applicants for certain positions may be required to take various tests that measure ability, aptitude and/or skill. All tests given to applicants shall be administered and evaluated by qualified individuals. All tests administered will conform to all applicable legal regulations. All test criteria will be job-related and consistent with business necessity and in full compliance with the Americans with Disabilities Act (ADA).

### **Section 15. Medical Examination**

Medical examinations will be required for all Sheriff, Jail and Emergency Medical Services personnel with the exception of administrative staff. Medical examinations may be required for other job classifications as determined by department heads and/or the County Manager. Medical examinations may be given only after an offer of employment has been made to an applicant and prior to the commencement of the employment duties of the applicant. However, all entering employees in the same job category must also be subjected to an examination. The information gained in the examination must be maintained separately and confidentially as

required by law. If the medical examination reveals the applicant has a disability, the County may not refuse to hire the applicant if the disability can be reasonably accommodated in accordance with the ADA. Any examination required by the County shall be at the expense of the County.

The County may require a medical examination (fitness for duty) or the medical monitoring of current employees if job-related and consistent with business necessity. However, if not job related and consistent with business necessity, no employee shall be required to take a medical examination and the County shall not make inquiries as to whether or not the employee has a disability or as to the nature or severity of the disability. Such examination, if required, shall be at the expense of the County and by a physician selected by the County.

**Section 16. Substance Abuse Policy**

The County's Substance Abuse Policy as adopted by the Board of Commissioners will be placed in each department and available to all employees.

## ARTICLE VI. LEAVES OF ABSENCE

### Section 1. Coverage

Employee leaves of absence are available for all regular, full time employees and part-time employees working at least thirty-two hours per week. Employees who work less than thirty-two hours per week and are on the County payroll at the time this personnel policy is adopted by the Board of Commissioners shall continue to receive all leaves of absence accorded to them prior to the policy adoption date.

### Section 2. Holidays Observed

- A. County offices shall observe the holiday schedule adopted by the Scotland County Board of Commissioners. The County Personnel Office maintains a current holiday schedule and a copy is provided to each department. All employees whose regular workweek is at least thirty-two (32) hours and who are scheduled to work on the day on which the holiday falls, shall receive these holidays with pay. An employee must be in active pay status on the workday before and the workday after a holiday in order to be eligible for holiday pay.
- B. The County shall make efforts to accommodate an employee's request to be away from work for certain religious holiday observances; however, nothing shall obligate the County to make accommodation if, in accommodating the request, it would result in undue hardship on the County or its employees.

The following factors shall be considered in accommodating religious holidays:

- The accommodation creates no greater risk to the health and safety of the employee, fellow employees, or the general public;
- By accommodating the unscheduled religious holiday, expenses to the County will not increase;
- Meaningful work can be provided under the circumstances in which the employee will be working; and
- Supervision can be provided if deemed necessary.

Religious holidays shall be accommodated by:

- Adjusting the work schedule of the employee to the extent that it does not significantly impact the rights of other employees, or
- Allowing the employee to exchange another County approved holiday for the religious holiday. The unscheduled religious holiday and the County approved holiday shall occur in the same calendar year.

If the religious holidays cannot be accommodated by the above, the Annual Leave Policy shall be used. If an employee has accrued annual leave, no request for annual leave shall be denied unless it would create an emergency condition which cannot be prevented in any other matter.

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

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

### **Section 4. Holidays - When Work is required**

Employees required to perform work on regularly scheduled holidays may be granted compensatory time off at a later time, or holiday pay. Holiday pay can be authorized only by the County Manager and will be based on the actual hours worked. Actual hours worked on holidays shall be recorded and included in determining total hours for the workweek for the purpose of calculating overtime payments.

Law Enforcement and EMS personnel who are required to work their regular schedule regardless of holidays will receive holiday pay in the pay period in which the holiday occurs.

### **Section 5. Adverse Weather Conditions**

County offices and departments shall remain open for the full scheduled working day unless authorization for early closing or other deviation is received from the County Manager's office. All departments and offices will be notified by the County Manager or designee as soon as possible of any authorized early closings. In the event of inclement weather, the following will apply.

A. Employees who leave work, report for work late or do not report for work at all, when there has been no official cancellation or delay, will be required to use earned annual or personal leave for days or hours taken; or the department head may approve specific make-up times for these employees as long as the time can be made up within the same work week.

B. Employees in departments, which officially close due to adverse weather conditions should record administrative leave for the period of time during which the office was closed. Non-emergency employees who work at their regular work station during the time of an official closing will not receive pay for both work time and administrative leave, nor can the employee carry forward administrative leave that is not used during the time period when the office or department is officially closed.

C. Employees on sick, annual, or personal leave are eligible for the administrative leave and will not be charged for their accrued paid leave for any leave time during which their department is closed due to inclement weather.

D. Employees in departments that must remain open during periods of inclement weather when the majority of County departments are officially closed shall receive administrative leave to be used at a later date equivalent to the administrative leave received by other County employees. Administrative leave must be used within three months. This also applies to employees who work in departments that may officially close, but they are assigned to shelter duty, or are otherwise placed on Emergency Call Back duty.

E. Essential Personnel: Employees essential to the successful and efficient management of an emergency situation shall be designated by their department head and are expected to report when contacted by County officials. Failure to be available or to report when called shall be deemed insubordination and will subject the employee to disciplinary actions. An essential

employee, unable to report for their scheduled shift due to legitimate environmental conditions that preclude them from travel to the work site, should contact their supervisor to see if alternate transportation can be arranged. This procedure also applies to any other reason outside the control of the employee that renders him/her unable to report to work. The supervisor must approve the absence of an essential employee during an emergency situation.

F. Call to Work: Pay shall commence at the time the employee receives the call to report for duty and will continue until the employee returns home. An employee who resolves emergency issues via telephone shall be compensated for all time spent on the call.

G. Employees reporting for emergency duty shall be compensated for travel time and mileage reimbursement for travel from home to the emergency site and back home. Mileage reimbursement shall be at the established county rate.

H. Scotland County Area Transit Systems (SCATS) will follow the lead of the Scotland County School System during inclement weather. When school is cancelled due to inclement weather, which would result in endangering the safe transportation of students to and from school, then SCATS transportation will also be cancelled. When school openings are delayed due to unsafe road conditions, then the services provided by SCATS will also be delayed on the same schedule as adopted by the school system for that particular event. In cases of extreme medical need (dialysis), SCATS may attempt to deliver service if such can be done without endangering the safety of passengers. This will be determined on a case-by-case basis by the EMS/Transportation Director. SCATS full-time employees will be granted administrative leave when they are unable to work due to inclement weather cancellations or delays. Administrative leave will not be granted to temporary PRN employees.

## **Section 6. Annual Leave**

Annual leave shall be used for rest and relaxation, for medical appointments and absences due to sickness when sick leave is exhausted, and for unexcused absences due to adverse weather conditions.

Employees are encouraged to take at least five (5) consecutive days of annual leave during each year to renew their physical and mental capabilities. The minimum amount of annual leave approved for all employees will be one-quarter hour (15 minutes) **and may be taken in quarter-hour increments thereafter.**

A. For the purpose of earning and accruing annual leave, the period of twelve (12) calendar months following the employee's anniversary date is established as the leave year.

B. Annual leave is not granted to new employees during the first three (3) months of employment. Any leave taken during the first three (3) months of employment will be leave without pay.

C. All regular and probationary full-time employees of the County who work an average of 40 hours per week shall earn annual leave at the following rate:

<u>Length of Service</u>	Hours <u>Earned Each Month</u>	Hours <u>Earned/Year</u>
Less than 2 years	6.67 hrs.	80 hrs.
2 but less than 5 years	8.00 hrs.	96 hrs.
5 but less than 10 years	10.00 hrs.	120 hrs.
10 but less than 15 years	12.00 hrs.	144 hrs.
15 or more years	14.00 hrs.	168 hrs.

D. All regular and probationary full-time employees of the County who work an average of 42 hours per week shall earn annual leave at the following rate:

<u>Length of Service</u>	Hours <u>Earned Each Month</u>	Hours <u>Earned/Year</u>
Less than 2 years	7.00 hrs.	84.0 hrs.
2 but less than 5 years	8.40 hrs.	100.8 hrs.
5 but less than 10 years	10.50 hrs.	126.0 hrs.
10 but less than 15 years	12.60 hrs.	151.2 hrs.
15 or more years	14.70 hrs.	176.4 hrs.

E. All regular and probationary full-time employees of the County who work an average of 56 hours per week shall earn annual leave at the following rate:

<u>Length of Service</u>	Hours <u>Earned Each Month</u>	Hours <u>Earned/Year</u>
Less than 2 years	9.36 hrs.	112.0 hrs.
2 but less than 5 years	11.20 hrs.	134.4 hrs.
5 but less than 10 years	14.00 hrs.	168.0 hrs.
10 but less than 15 years	16.80 hrs.	201.6 hrs.
15 or more years	19.60 hrs.	235.2 hrs.

F. Employees working at least thirty-two hours but less than 40 hours shall earn annual leave in proportion to hours worked.

G. Accumulated annual leave in excess of 240 hours shall be converted to sick leave at the end of each benefit year on the anniversary date of employment with the County. Converted sick leave shall be used in the same manner as accrued sick leave. Any unused converted sick leave may be counted toward creditable service at retirement.

H. Time taken off by employees using approved leave with pay, or receiving workers' compensation benefits, shall be counted as time worked for the purpose of earning annual leave.

I. Persons hired on or before the 15th of the month shall earn annual leave for that month. Those hired after the 15th of the month begin earning annual leave on the first of the following month and shall be subject to waiting three (3) months after hire date to take paid annual and/or sick leave, subject to the administrative guidelines for taking accrued paid leave, as amended.

J. Annual leave shall be taken with the **prior** approval of the employee's supervisor.

K. An employee will not be permitted to work for the County at the same time he/she is on annual leave. Under no circumstances shall an employee be paid for accumulated or unused annual leave while still in the employment of the County.

L. Upon termination of employment with the County for whatever reason, an employee must have worked through the 15th of the month of termination to earn annual leave for that month. At the time of an employee's separation, any advanced annual leave owed the County shall be deducted from the employee's final compensation.

Upon submission of a properly executed resignation, an employee shall be eligible to be paid for annual leave accumulated to the date of separation, not to exceed the maximum 240 hours. Resignation without sufficient notice as deemed appropriate by the department head, and approved by the County Manager, may result in the forfeiture of up to 80 hours accrued annual leave. The County Manager will decide amount of annual leave forfeited.

An employee who is involuntarily separated without failure in performance of duties or personal conduct, as outlined in Article VIII, shall be paid for annual leave accumulated to the date of separation, but not to exceed 240 hours. **Probationary employees who are separated from employment either voluntarily or involuntarily will forfeit all accrued annual leave.**

For involuntary separation due to failure in performance of duties or personal conduct, accumulated annual leave may be withheld, given the circumstances of each employee's case, at the discretion of the County Manager.

M. The estate of an employee who dies while employed by the County shall be entitled to payment of all of the accumulated annual leave credited to the employee's account, not to exceed a maximum of 240 hours.

### **Section 7. Sick Leave**

- A. Employees may be granted sick leave for absence due to the following:
1. Sickness or bodily injury that prevents the employee from performing his or her regular duties.
  2. Illness of an employee's spouse, child, parent, or member of household that requires the employee's care.
  3. Medical or dental appointments.
  4. The actual period of temporary disability caused or contributed to by pregnancy, miscarriage, childbirth, or recovery there from. A doctor's certificate is required to verify the employee's period of temporary disability for these reasons.
  5. Exposure to a contagious disease when continuing work might jeopardize the health of others.
  6. Death in the employee's immediate family (as defined in Art. I, Sec. 3), not to exceed three (3) days for any one occurrence. Annual Leave or Leave without Pay will be used for any additional days taken beyond the three (3) days.
- B. Paid sick leave is not granted to **new** employees during the first three (3) months of

employment, with the exception of leave due to the death in the employee's immediate family (as defined in Article I, Section 3) not to exceed three (3) days for any one occurrence.

- C. Employees must notify their immediate supervisor of all requests for sick leave before the leave is taken, or not later than one (1) hour after the beginning of a scheduled working day. Sick leave may be taken only with the approval of the immediate supervisor. The minimum amount of sick leave approved for all employees will be one-quarter hour (15 minutes) **and may be taken in quarter-hour increments thereafter.**
- D. To avoid abuse of sick leave privileges, the appointing authority may require a doctor's statement for any sick leave taken if circumstances warrant and regardless of the amount of leave taken. Failure of an employee to provide requested proof shall constitute a reason for nonpayment of the days taken. Such action may also be construed as grounds for further disciplinary action. A doctor's statement regarding an employee's ability to return to work after an illness or injury may also be required prior to the employee's return to work.
- E. Each regular, trainee and probationary employee shall earn sick leave per "completed" month based on the average hours worked per week. The rates are as follows: An employee working an average of

- \* 40 hours per week..... 8 hrs. per month
- \* 42 hours per week..... 8.40 hrs. per month
- \* 56 hours per week..... 11.20 hrs. per month

A "completed" month is any month in which an employee works at least one-half the workdays. Employees hired on or before the 15th of the month earn sick leave for that month and those hired after the 15th of the month begin earning sick leave on the first day of the following month. Part-time employees working at least thirty-two (32) hours but less than forty (40) hours per week will earn sick leave in proportion to the number of hours worked. Time taken off by employees using approved leave, or time off under worker's compensation, shall be counted as time worked for the purpose of sick leave accumulation. There is no maximum accumulation for sick leave. At the time of separation, any sick leave owed the County shall be deducted from the employee's final compensation.

F. Unused sick leave may be applied toward retirement credit, at the rate of one month's credit for every 160 hours of unused sick leave, under the rules of the North Carolina Governmental Employees Retirement System. At the end of each benefit year on their anniversary date of employment, any County employee who has accrued annual leave in excess of 240 hours, shall have the excess leave converted to sick leave. This converted sick leave shall be used in the same manner as accrued sick leave, and may be used for authorized sick leave purposes only. Also like regular sick leave, any unused converted sick leave may be counted toward creditable service at retirement.

G. Sick leave balances will be accepted by the County for transfer, only in behalf of employees whose **immediate** past employer has been the State Government of North Carolina, or units of local government participating in the North Carolina Local Government Employees Retirement System. Transfer of sick leave will be accepted only when the chief administrative officer of the

unit of state or local government, or other appropriate official, can certify the balance, and the period of employment. The transfer of leave will be credited to the employee's leave record after the employee completes the required three (3) months waiting period for taking accrued paid leave. Transferred sick leave will be subject to existing County policies governing sick leave.

H. Employees who retire, resign in good standing, or are dismissed from employment because of reduction in force and are reinstated within one (1) year will be credited with their previously accumulated sick leave. Employees who are dismissed for reasons other than reduction in force and employees who are not reinstated within one (1) year will lose all sick leave credits.

I. Employees will not be paid for any portion of unused sick leave when they leave the employment of the County, for any reason, except as approved by the Scotland County Board of Commissioners.

### **Section 8. Leave Without Pay**

- A. In situations when an employee has a need for leave for FMLA reasons, but is not yet eligible for FMLA or has exhausted their FMLA leave, the employee may make a written request for a leave of absence without pay for up to six calendar (6) months. The granting of such leave is subject to approval of the County Manager upon recommendation of the department head. The employee may elect to use appropriate accrued leave before going on leave without pay status. The employee is obligated to return to duty within or at the end of the time determined appropriate by the County Manager. Upon returning to duty after being on leave without pay, the employee shall be entitled to return to the same or a similar position, seniority and pay held at the time leave was granted. Time on leave without pay does not apply to service credit for determining longevity pay. *If, at the expiration of a leave of absence, the employee decides not to return to work, the County Manager should be notified immediately. Failure to report at the expiration of a leave of absence, unless an extension has been requested and granted, shall be considered a resignation.*
- B. Incidental instances of leave without pay, which occur prior to the employee's eligibility to take accrued paid leave, or the exhaustion of the employee's accrued paid leave is subject to the approval of the department head. Excessive incidents of leave without pay after the exhaustion of accrued paid leave is subject to disciplinary action under the provisions of Article VIII.
- C. An employee may also make a written request for Leave without Pay for personal reasons or for special work that will permit the County to benefit by the experience gained or the work performed. Such leave is also subject to the approval of the County Manager upon the recommendation of the department head. The employee will not be allowed to use leave without pay privileges for annual leave purposes while maintaining his/her accumulated annual leave. He/she must use accrued annual leave before requesting leave without pay if leave is for annual leave purposes.
- D. Leave without pay may also be used by the County as a form of disciplinary action. If an employee is placed on disciplinary Leave without Pay, the employee may not use accrued paid leave to substitute the Leave without Pay.

**(See Article VIII, Section 8, Part H 2)**

- E. An employee shall have the option to retain all unused annual, sick and personal leave, unless otherwise stated, while on leave without pay, however, he/she ceases to earn leave credits on the date leave without pay begins. Also, any personal leave unused by the end of a calendar year will be forfeited. Group Insurance coverage provided for the employee by the employer during regular pay status will not be provided as employer expense benefits during leave without pay unless the employee is on the payroll a minimum of one-half (½) the working days during the month. The employee, however, may continue to be eligible for any benefit(s) under the county's group plans, subject to regulations of the respective group carriers. The employee will be responsible for paying his/her premiums along with any dependent premiums.

### **Section 9. Family Medical Leave Act**

The Family and Medical Leave Act of 1993 (also referred to as the FMLA or the ACT) was passed by Congress to balance the demands of the workplace with the needs of families, to promote the stability and economic security of families, and to promote national interests in preserving family integrity; to minimize the potential for employment discrimination on the basis of sex by ensuring generally that leave is available for eligible medical reasons (including maternity-related disability) and for compelling family reasons; and to promote the goal of equal employment opportunity for women and men.

In accordance with the Act eligible employees of Scotland County are entitled to a paid and/or unpaid leave of absence up to a maximum of twelve (12) workweeks during any twelve (12) month period, subject to the conditions outlined in the Family Medical Leave Act, as amended. For the purpose of defining the twelve (12) month period, the period starts the date the employee first uses qualifying leave.

#### **A. Eligible Employees**

1. Regular employees who have been employed with Scotland County for at least twelve (12) months and who have worked at least 1250 hours during the previous twelve (12) month period are entitled to a total of 12 workweeks, (a workweek is defined as the number of hours an employee is regularly scheduled to work each week.) paid or unpaid leave during any twelve (12) month period for one or more of the reasons listed below:

- a. For the birth of a child and to care for the child after birth, provided the leave is taken within a twelve (12) month period following birth.
- b. For the employee to care for a child placed with the employee for adoption provided the leave is taken within a twelve (12) month period following adoption.
- c. For the employee to care for the employee's child, spouse, or parent, where that child, spouse, or parent has a serious health condition; or
- d. Because the employee has a serious health condition that makes the employee unable to perform the functions of the employee's position.

For the purposes of this policy a serious health condition is an illness, injury, impairment, or physical or mental condition that involves either inpatient care in a hospital, hospice or residential medical care facility, or that involves continuing treatment by a health care provider.

2. This policy does not cover temporary employees since the maximum length of a temporary appointment is one year; however, if, by exception, a temporary employee were

extended beyond one year, the employee would be covered if they had worked at least 1250 hours during the previous twelve-month period. Any leave granted to a temporary employee would be without pay.

B. Leave charges will be as follows:

1. For the birth of a child, the employee may choose to exhaust available annual and/or sick leave, or any portion, or go on leave without pay; except that sick leave may be used only during the actual period of disability. Only annual leave or leave without pay may be used before and after the period of disability unless the sick leave policy becomes appropriate for medical conditions affecting the mother or child. This applies to both parents.

2. For the adoption of a child, the parents may choose to exhaust available vacation leave, or any portion, or go on leave without pay.

3. For the illness of an employee's child, spouse, or parent, where that child, spouse, or parent has a serious health condition; or

4. For the employee's illness, the employee shall exhaust available sick leave and may choose to exhaust available vacation leave, or any portion, before going on leave without pay.

Periods of paid leave and periods of leave without pay (including leave without pay while drawing short-term disability benefits) count towards the 12 workweeks to which the employee is entitled. **\*(Worker's Compensation Leave also qualifies for FMLA)** This includes leave taken under the Voluntary Shared Leave Policy.

C. Pursuant to this policy, the employee may not take leave intermittently or on a reduced work schedule for childbirth and birth related childcare or for adoption unless the employee and the County agree otherwise. When medically necessary, the employee may take leave intermittently or on a reduced schedule to care for the employee's child, spouse, or parent who has a serious health condition, or because the employee has a serious health condition. If such leave is foreseeable, based on planned medical treatment, the County may require the employee to transfer temporarily to an available alternative position for which the employee is qualified and that has equivalent pay and benefits and better accommodates recurring periods of leave. When an employee is on a reduced work schedule, the time not worked is counted against the total 12 workweeks.

D. Designation of Leave as FMLA Leave

It is the responsibility of the County to:

1. determine that leave requested is for a FMLA qualifying reason, and
2. designate leave, whether paid or unpaid, as FMLA leave even when an employee would rather not use any of the FMLA entitlement.

The key in designating FMLA leave is the qualifying reason(s), not the employee's election or reluctance to use FMLA leave or to use all, some or none of the accrued leave. The County's designation must be based on information obtained from the employee or an employee's representative (e.g., spouse, parent, physician, etc.)

Designation of Paid Leave as FMLA Leave will be as follows:

When an employee gives notice of the need for FMLA leave and the employee is using paid leave, whether required or optional, the County shall designate whether it qualifies for FMLA leave before the leave starts. If information is not sufficient to make the determination, the agency shall require the employee to provide the information. All leave taken can be designated as FMLA leave; however, if sufficient information was available and the designation or notice was not given, the leave cannot be designated as FMLA leave retroactively.

When an employee is on paid leave but has not given notice of the need for FMLA leave, the County shall, after a period of no more than 10 workdays, request that the employee provide sufficient information to establish whether the leave is for a FMLA-qualifying reason. This does not preclude the County from requesting the information sooner, or at any time an extension of leave is requested.

If an absence, which began as other than FMLA leave later develops into an FMLA qualifying absence, the entire portion of the leave period that qualifies under FMLA may be counted as FMLA leave.

Once the County has knowledge that the leave is being taken for an FMLA required reason, the County must, within two business days, absent extenuating circumstances, notify the employee that the leave is designated and will be counted as FMLA leave. **The notice may be oral or in writing, but must be confirmed in writing no later than the following payday.**

Designation of FMLA Leave after Return to Work shall be as follows:

The County may not designate leave that has already been taken as FMLA leave after the employee returns to work, with two exceptions:

1. if an employee is out for a reason that qualifies for FMLA leave and the County does not learn of the reason for the leave until the employee returns to work, the County may designate the leave as FMLA leave within two business days of the employee's return; or
2. if the County has provisionally designated the leave under FMLA leave and is awaiting receipt from the employee of documentation.

Similarly, the employee is not entitled to the protection of the FMLA if the employee gives notice of the reason for the leave later than two days after returning to work.

If the employee will not return to work after the period of leave, the County should be notified in writing immediately. Failure to report at the expiration of the leave, unless an extension has been requested and approved, may be considered as a resignation.

**E. Certification** - The employee shall provide certification in accordance with the provisions listed below. If the employee does not provide medical certification, any leave taken is not FMLA leave.

**Adoption** - The County may require that a claim for leave because of adoption be supported by reasonable proof of adoption or foster care.

**Medical Certification** - For leave because of a serious illness of the employee or of the employee's family member the County may require a certification from the health care provider.

**Validity of the Certification** – Where the County has reason to doubt the validity of the certification the County may require **(at the County's expense)** the employee to obtain the opinion of a second health care provider designated or approved by the County. Where the second opinion differs from the opinion in the original certification provided, the County may require the employee to obtain the opinion of a third health care provider designated or approved jointly by the County and the employee **(the third opinion will also be at the County's expense)**. The third opinion is final and is binding on the County and the employee.

**Recertification of Medical Conditions** –The County may request recertification no more often than every 30 days unless: (1) an extension is requested, (2) circumstances described by the previous certification have changed significantly, or (3) the County receives information that casts doubt upon the employee's stated reason for the absence.

If the minimum duration specified on a certification is more than 30 days, the County may not request recertification until that minimum duration has passed unless one of the above conditions is met.

The employee must provide the requested recertification to the County within the time frame requested (which must allow at least 15 calendar days after the agency's request), unless it is not practicable under the particular circumstances.

Any recertification requested by the County shall be at the employee's expense unless the County provides otherwise. No second or third opinion on recertification may be required.

F. Employment and benefits protection will be as follows:

1. The employee shall be reinstated to the same position held when the leave began or one of like pay grade, pay, benefits, and other conditions of employment. The County may require the employee to report at reasonable intervals to the employer on the employee's status and intention to return to work. The County also may require that the employee receive certification that the employee is able to return to work.

2. The employee shall be reinstated without loss of benefits accrued when the leave began. All benefits accrue during any period of paid leave; however, no benefits will be accrued during any period of leave without pay.

3. The County shall maintain coverage for the employee under the County's group health plan for the duration of leave at the level and under the conditions coverage would have been provided if the employee had continued employment. The County may recover premiums if the employee fails to return after the period of leave to which the employee is entitled has expired for a reason other than the continuation, recurrence, or onset of a serious health condition or other circumstances beyond the employee's control. Leave without pay beyond the twelve (12) week period or for employees not covered under the Family and Medical Leave Policy will be administered under Leave Without Pay policy (Section 8). Under these provisions, employees must pay for health benefits coverage.

## **Section 10. Military Leave**

A. An employee who is a member of the National Guard or the Armed Forces Reserve will be allowed fifteen (15) working days of military training leave annually, with partial compensation. If the compensation received while on military leave is less than the salary that would have been earned during this same period as an active employee, the employee shall receive partial compensation equal to the difference between the base salary earned as a reservist and the salary that would have been earned during this same period as a County employee. The effect will be to maintain the employee's salary at the normal level during this period of fifteen (15) working days. If such military duty is required beyond this period of fifteen (15) working days, the employee shall be eligible to take accumulated annual leave or be placed on leave-without-pay status.

B. While on military leave with partial pay or without pay, the employee's leave credits and other benefits shall continue to accrue as if the employee remained with the County during this period. Employees who are reservists have all job rights specified in the Veterans Readjustment Assistance Act and the Uniformed Services Employment and Reemployment Rights Act of 1994.

## **Section 11. Civil Leave**

A. Employees may be granted time off with pay for a reasonable amount of time to be established by the County Manager at the beginning or end of their regular work day so that they may vote in national, state and local elections. *This leave is only available to employees whose normal work hours would not otherwise allow them an opportunity to vote.*

B. Civil leave may also be granted when an employee is called for jury duty or as a court witness for the federal or state governments or a subdivision thereof in any civil or criminal legal proceeding. The employee shall receive leave with pay for such duty during the required absence without charge to accumulated leave. An employee may keep fees and travel allowances received for jury or witness duty in addition to regular compensation. However, employees must turn over to the finance officer any witness fees or travel allowances awarded by that court for court appearances in connection with official duties as they are reimbursed for these expenses under the provisions of this policy. When an employee's obligation for jury or witness duty ends before the end of that employee's normal workday, the employee is expected to return to work for the remainder of the workday. While on civil leave, benefits and leave shall accrue as though on regular duty.

C. **Exception:** An employee who is a principal in private litigation shall not be entitled to civil leave, but may take annual leave or leave without pay for necessary court appearances with the approval of the supervisor and department head for annual leave and the County Manager for leave without pay.

## **Section 12. Personal Leave**

Full-time employees will begin each calendar year with fifteen (15) hours personal leave with pay, over and above sick leave or annual leave with pay. Employees hired within the calendar year will have pro-rated hours (1.25 hours per month) of Personal Leave during the first year of employment, with no Personal leave to be taken during the first three (3) months of employment. Part time employees will not receive personal leave.

An employee may take personal leave in increments of fifteen (15) minutes up to a maximum of three (3) hours, with the permission of his/her department head. Any time taken above three (3) hours will be charged to annual leave, sick leave or leave without pay, as may be appropriate. Personal leave will be used during the calendar year and will not be carried forward from year to year. Personal leave may be used by employees to conduct personal matters that cannot be transacted outside of working hours, time lost reporting to work, medical and legal appointments, absences due to adverse weather and for involvement in school activities in accordance with G.S. 95-28.3 as amended. No Personal Leave will be approved once an employee has tendered his/her resignation.

## **Section 13. Educational Leave**

A. Educational leave may be granted upon the recommendation of the employee's supervisor and department head with the approval of the County Manager and based on availability of funds in the following instances:

1. Full-time, regular employees may be granted leave with pay during normal working hours for training in a career related course of instruction to upgrade knowledge and skills. This leave may be granted only when a comparable course is not scheduled after working hours.

2. Courses taken must be related to the particular job the employee holds. The training may include refresher courses, academic or commercial courses. Courses taken for cultural and personal enrichment are not eligible for educational leave and must be taken after normal working hours at the employee's expense.

3. Time away from work may not exceed actual time for classroom instruction for one course each semester or quarter, in addition to a reasonable amount of time for travel to and from the location of the course.

B. An employee granted paid educational leave shall be required to render additional service time to the County in exchange for the educational leave. In the event the employee does not satisfy the additional service time requirements, the employee shall be responsible for reimbursing the County for a pro-rata share of the total cost of educational leave. The County Manager shall have the responsibility of determining the required service time based on individual circumstances at the time educational leave is requested.

## **Section 14. Administrative Leave**

The County Manager, for purposes considered to be in the public interest, in cases of civil disturbances, severe weather conditions or in such other circumstances as good judgment and common practice would dictate may authorize leave with pay.

## **Section 15. Voluntary Shared Leave**

A. In cases of a prolonged medical condition an employee may apply for or be nominated to become a recipient of leave transferred from the annual leave account of another employee. For purposes of this policy, medical condition means medical condition of an employee or a family member, spouse, parents, children [including step relationships] or other dependents living in the household of such employee that is likely to require an employee's absence from duty for a prolonged period of time. The intent of this policy is to allow one employee to assist another in case of a prolonged medical condition that results in exhaustion of all earned leave. **Use of this policy further presumes prudent and justifiable past use of earned leave benefits.** All departments of the County shall be treated as one agency for the purpose of this policy.

B. This program shall be administered by the County Personnel Director in accordance with the following guidelines:

1. The transfer and use of annual and/or sick leave from one individual to another is specifically prohibited unless allowable within this policy.

2. Establishment of a leave "bank" for use by unnamed employees is expressly prohibited. Leave must be donated on a one-to-one personal basis.

3. An employee may not directly or indirectly intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with any right which such employee may have with respect to donating, receiving, or using leave under this program. Such action by an employee shall be grounds for disciplinary action up to and including dismissal on the basis of personal conduct. Individual leave records are confidential and only individual employees may reveal their donation or receipt of leave. The employee donating leave cannot receive enumeration for the leave donated.

4. Leave transferred under this program will be available for use on a current basis or may be retroactive for up to 30 calendar days to substitute for leave without pay or advanced annual leave already granted to the leave recipient.

5. A non-family member donor may contribute vacation leave only.

6. A family member who is also an employee of the County may contribute annual or sick leave to another immediate family member employed by any department of the County provided the recipient employee has been approved for leave under this program.

7. The maximum amount of leave allowed to be donated by one individual is to be no more than the amount of the individual's annual accrual rate. However, the amount donated is not to reduce the donor's leave balance below eighty (80) hours.

C. Eligibility of employees participating in this program shall be as follows:

1. The employee must be in a full or part time regular status. The limitation and leave balance for regular part time employees is pro-rated.

2. An employee on workers' compensation leave who is drawing temporary total disability compensation may be eligible to participate in this program. Use of donated leave under the workers' compensation program would be limited to use during the required waiting period.

3. This policy will not ordinarily apply to short-term or sporadic conditions or illnesses. This would include such things as sporadic, short-term recurrences of chronic conditions such as allergies; short-term absences due to contagious diseases; or short-term, recurring medical or

therapeutic treatments. These examples are illustrative, not all inclusive. Each case must be examined and decided based on its conformity to policy intent and must be handled consistently and equitably.

D. A prospective recipient may make application for voluntary shared leave by letter to the department head or may be nominated by a fellow employee at such time as medical evidence is available to support the need for leave beyond the employee's available accumulated leave. The County may establish internal guidelines to facilitate the administration of this process.

E. Participation in this program is limited to 1,040 hours (130 days), pro-rated for part-time employees, either continuous or, if for the same condition on a recurring basis. However, employee continuation in the program on a month-by-month basis for a maximum of 2,080 hours (260 days) may be granted by the County.

F. The employee must exhaust all available leave before using donated leave. Subject to the maximum of 1,040 hours, the number of hours of leave an employee can receive is equal to the projected recovery or treatment period, less the employee's combined vacation and sick leave balance as of the beginning of the recovery or treatment period.

G. Leave donated to a recipient's leave account is exempt from the maximum accumulation carry over restrictions at anniversary.

H. At the expiration of the medical condition, as determined by the County, any unused leave in the recipient's donated leave account shall be treated as follows:

1. The vacation and sick leave balance shall not exceed a combined total of 40 hours (pro-rated for part time employees).

2. Any additional unused donated leave will be returned to the donor(s) on a pro-rata basis and credited to the leave account from which it was donated. Fractions of one hour shall not be returned to an individual donor.

I. If a recipient separates from the County, participation in the program ends. Donated leave shall be returned to donor(s) on a pro-rata basis.

J. Each employee donating leave shall carefully read and execute a disclosure form confirming that he/she understands the following: the cash value of the donation; the potential for financial risk should the donor employee experience a future health problem or other possible threat to his income; the possible future situation when the employee making the donation would later need a donation but donations would not occur; and confirmation that he/she was not coerced, either directly or indirectly.

## **Section 16. Workers' Compensation Policy**

**Policy:** In addition to the benefits provided by the Workers' Compensation law, employees injured on the job as a result of a compensable accident and who lost time from work shall be provided leave in accordance with the provisions outlined below.

- A. Leave on the Day of Injury: No leave is charged on the day of the injury if the treating physician instructs the employee not to return to work. The employee shall obtain a written statement from the physician indicating that the employee must not return to work and the employee is to present the statement to the supervisor at the appropriate time.
- B. Additional Leave: If the injury results in additional time away from work, the employee must go on Workers' Compensation leave and receive the Workers' Compensation weekly benefit after the required waiting period required by G.S. 97-28. One of the waiting period options listed below must be chosen. Once an election is made, it may not be rescinded for the duration of the claim.

**Option 1:** Elect to take accrued annual, sick, personal, or compensatory leave during the required waiting period and then go on Workers' Compensation leave and begin drawing workers' compensation weekly benefits.

**Option 2:** Elect to go on Workers' Compensation leave with no pay for the required waiting period and then begin drawing workers' compensation weekly benefits.

If the injury results in disability of more than a specified number of days, as indicated in G.S. 97-28, the workers' compensation weekly benefit shall be allowed from the date of disability. If this occurs in the case of any employee who elected to use accrued leave during the waiting period, no adjustment shall be made in the leave used for these workdays.

- C. Use of Partial Leave: In Option 1 or 2 above, after the employee has gone on workers' compensation leave, the weekly benefit may be supplemented by the use of partial sick or annual leave, earned prior to the injury. This will provide an income approximately equal to their take-home or net pay.
- D. Use of Family and Medical Leave: As one of the reasons for the use of FMLA leave is for a serious health condition that makes the employee unable to perform for functions of the employee's position, the Workers' Compensation Leave will also be counted against the twelve (12) weeks of leave under the provisions of the Family and Medical Leave Act.
- E. Compensatory Leave: If an employee has a balance of Compensatory leave, this leave must be used during the waiting period prior to using any sick or annual leave. In this instance, the Compensatory leave will not be counted as FMLA leave.
- F. How to Pay Partial Leave: If the employee has earned leave or compensatory time and chooses to use it while drawing the weekly benefit, it shall be paid on a temporary/hourly basis at the employee's hourly rate of pay. It is subject to State and Federal withholding taxes and Social Security, but not subject to retirement or 401(k), just the same as other temporary pay. However, the County may continue to make the monthly deductions for a NC 401(k) loan since these payments are after-tax repayments and are not considered employee contributions.

- G. No Leave Required for Follow-Up Medical Visits: Employees injured on the job in a compensable accident, in order to reach maximum medical improvement, requiring medical or therapy visits during regularly scheduled working hours shall not be charged leave for time lost from work for required treatment. Paid time will be limited to reasonable time for treatment and travel. Employees may be required to provide documentation certifying the medical or therapy appointment with the time in and time out certified by the medical provider. Any excess time will be charged to accrued leave (sick, annual, personal, or compensatory).
- H. Annual and Sick Leave Accrual: While on Workers' Compensation Leave, the employee shall continue to accumulate annual and sick leave to be credited to the employee's leave account for use upon return.
- I. Leave Paid if Employee Does Not Return: If the employee does not return from Workers' Compensation leave, annual leave accumulated **only during the first twelve (12) months of Workers' Compensation Leave** will be exhausted by a lump sum payment, along with the other unused annual leave which was on hand at the time of the injury.
- J. Leave in Excess of 240 Hours: Since the employee is on Workers' Compensation Leave and is not able to schedule vacation time off, the annual leave accumulation may in some cases exceed the 240 hours maximum that can be carried forward. It shall be handled as follows:  
The 240-hour maximum to be carried forward to the next anniversary date may be exceeded by the amount of annual leave accumulated during Workers' Compensation Leave. The excess may be used after returning to work or carried on the leave account until the end of the next anniversary date at which time any excess annual leave will be converted to sick leave.  
If the employee separates from employment during the period that excess annual leave is allowed, the excess leave to be paid in a lump sum may not exceed the amount accumulated during the first twelve (12) months of Workers' Compensation Leave.
- K. Health, Dental & Life Insurance: While on Workers' Compensation Leave, an employee shall continue to be covered under the County's Health, Dental, and Life Insurance programs, in compliance with County Insurance guidelines. Premiums that are normally deducted from the employee's paycheck must be paid directly by the employee.
- L. Retirement Service Credit: While on Workers' Compensation Leave an employee does not receive retirement credit. As a member of the Retirement System, the employee may purchase credits for the period of time on an approved leave of absence. Upon request by the employee, the Retirement System provides a statement of the cost and a date by which purchase must be made.
- M. Longevity: While on Workers' Compensation Leave, an employee will continue to receive longevity credit. Employees who are eligible for longevity pay shall receive their payments in accordance with the Longevity Pay policy. Longevity pay made during

Workers' Compensation Leave is not subject to retirement or 401(k) employee or employer contributions.

- N. Reinstatement Salary: Upon reinstatement, an employee's salary shall be computed based on the last salary plus any Board of Commissioners' approved increase to which entitled.

## ARTICLE VII. EMPLOYMENT BENEFITS

### Section 1. Coverage

Employee benefits are available for all regular, full time employees and part-time employees working at least thirty-two hours per week. Employees who work less than thirty-two hours per week and are on the County payroll at the time this personnel policy is adopted by the Board of Commissioners shall continue to receive all benefits accorded to them prior to the policy adoption date.

The benefits provided for under the provisions of this article are subject to the policies and procedures of the respective insurance providers and/or underwriters and Scotland County does not guarantee or warrant any benefits.

### Section 2. Group Health and Dental Insurance

A. The County shall make medical insurance coverage available to all regular, full-time employees and part-time employees working at least thirty-two (32) hours per week. A minimum waiting period of thirty (30) days will be required before the coverage takes effect.

B. Dental coverage is also available at the employee's option. There is a three (3) month waiting period for dental coverage.

C. The employee may elect to obtain dependent health and/or dental coverage at his/her own expense through payroll deduction.

D. All regular full-time County employees and regular part-time employees who work at least thirty-two (32) hours per week, whose retirement under the provision of the North Carolina Local Government Employees' Retirement System is either through length of service, during which time at least fifteen (15) consecutive years are served with Scotland County prior to retirement, or disability, will continue to be covered, at the County's expense, on the County's Group Health Plan. Coverage by the County will be at the existing level at the time of retirement. The retiring employee will have the option of continuing, at their own expense, any additional coverage for self and/or dependent(s) available with the County group. Dependent coverage will end when the dependent becomes eligible for another Group Health Plan or Medicare. **For retirees whose hire date is on or after July 1, 2004, health coverage will end when retiree becomes eligible for Medicare at age 65.**

E. Under the Consolidated Omnibus Budget Reconciliation Act (COBRA), health benefits must be continued, at the employee's or dependent's request and expense after termination of employment in certain circumstances. Health insurance coverage must be extended at the employee's expense for eighteen (18) months if employment is terminated (unless terminated due to gross misconduct); **or** hours worked are reduced causing the employee to be ineligible under the terms of the plan. Coverage for dependents, at the dependent's expense, may be extended for 36 months if their coverage is terminated due to death of covered employee; divorce or legal

separation; employee's entitlement to Medicare; or a dependent child ceases to be a dependent under the terms of the plan.

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

A. Employees who are regularly scheduled to work on a permanent basis for at least thirty-two (32) hours a week shall be eligible for life insurance on the date first reporting for work. Employees may, at their own expense through payroll deduction, acquire insurance for their dependents. In some instances, employees' may be required to submit proof of good health to place life insurance in force. The insurer will determine the type and form of required proof.

B. All elected County Officials (Board of Commissioners, Sheriff and Register of Deeds) who have served two or more consecutive terms, or who retire under the North Carolina Local Governmental Employees' Retirement System, will continue to be carried on the County's Group Life Insurance Program. Coverage by the County will remain at the level in effect at the time of retirement. The retiring County Official will have the option of continuing any additional coverage available with the County group.

C. All regular full-time County employees and regular part-time employees who work at least thirty-two (32) hours per week, whose retirement under the provision of the North Carolina Local Government Employees' Retirement System is either through length of service, during which time at least fifteen (15) consecutive years are served with Scotland County prior to retirement; or disability, will continue to be covered, at the County's expense, on the County's Group Life Insurance Plan. Coverage by the County will be at the existing level at the time of retirement. The retiring employee will have the option of continuing, at their own expense, any additional coverage available with the County Group Plan.

### **Section 4. Unemployment Compensation**

County employees who are laid off or dismissed from County service may apply for unemployment compensation through the local office of the Employment Security Commission. The Employment Security Commission will determine eligibility for unemployment compensation.

### **Section 5. Social Security**

The County, to the extent of its lawful authority and power, shall extend to its eligible employees benefits authorized by Title II of the Federal Social Security Act as amended. The federal Social Security program provides monthly benefits upon retirement, with full benefits available at age sixty-five (65) and reduced benefits available as early as age sixty-two (62), or as amended.

### **Section 6. Retirement Plan**

All regular employees who work a minimum of 1,000 hours per year are required to enroll in the North Carolina Local Governmental Employees' Retirement System. The County will pay the

employer's portion and deduct the employee's portion from his/her paycheck monthly. Enrollment is effective upon the employee's first day of employment with the County.

**Section 7. Death Benefit**

The beneficiary of an employee who dies after one year of contributing to the North Carolina Local Governmental Employees' Retirement System AND while still being paid a salary by the County will receive a single lump sum payment. This payment equals the highest twelve (12) months' salary in a row during the twenty-four (24) months before the employee's death, but not less than \$25,000 and no more than \$50,000. This benefit is also paid if the employee dies within 180 days of the last day for which he/she was paid salary.

**Section 8. Law Enforcement Officers' Separation Allowance**

The County shall provide a special separation allowance as required by NC G.S. 143-166.41 and .42, as amended. Payment of the separation allowance, will cease at the first of: (a) the last day of the month in which the officer reaches age sixty-two (62); (b) the death of the officer; (c) the first day of re-employment by a unit of Local Government.

**Section 9. Separate Insurance Benefits Plan for Law Enforcement Officers**

Scotland County Law Enforcement Officers shall be eligible for benefits under **North Carolina General Statute 143-166.60. Separate Insurance Benefits Plan for Law Enforcement Officers.** This plan provides accident/sickness disability and life benefits and is state-administered by the Boards of Trustees of the Teachers' and State Employees' Retirement System and the Local Governmental Employees Retirement System and is funded by establishment of a trust fund "*...derived from the cost of court provided for in G.S. 7A-304(a)(3),...*" Scotland County's participation in this plan is limited to providing brochures explaining this plan and claim forms which can be obtained from the County Personnel Office.

**Section 10. Supplemental Retirement Plan (401K)**

State law requires each County to place an amount equal to a specified percentage of the gross annual salary for all certified law enforcement personnel in a 401K Savings Plan. All other County employees can voluntarily place a portion of their pre-tax salary, up to the lawful maximum amount, in the 401K Savings Plan. The County will provide matching funds for non-law enforcement employees as determined by the Board of Commissioners.

**Section 11. Workers' Compensation**

An employee absent from duty because of sickness or disability covered by the North Carolina Workers' Compensation Act may receive Workers' Compensation benefits. Employee health and dental benefits will remain effective during the disability. The employee will only be responsible for premiums that are normally deducted from his/her paycheck. Upon reinstatement, an employee's salary will be computed on the basis of the last salary earned plus any increment or other salary increase to which the employee would have been entitled during

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

For more information concerning Workers' Compensation, refer to the bulletin issued by the N. C. Industrial Commission entitled, "Information About the North Carolina Workers' Compensation Act". A copy is available in the County Personnel Office.

## **Section 12. Adverse Medical Reaction to Work Related Smallpox Vaccination Leave**

**Purpose:** It is the intent of Scotland County to comply with the NC General Assembly Session Law 2003-169, House Bill 273. This is an Act to ensure that employees who receive vaccination against Smallpox incident to the Administration of Smallpox Countermeasures by Health Professionals under Section 304 of the Federal Homeland Security Act of 2002 will be covered for adverse medical reactions due to the vaccination.

**Policy:** All incidents of adverse medical reaction due to a County employee receiving in employment smallpox vaccination, as contemplated by Session Law 2003-169, are covered by the North Carolina Workers' Compensation Act in the same manner as other workplace injuries or illnesses. This coverage does not depend upon voluntariness. All such vaccinations through the National Smallpox Vaccination Program will be covered.

### **Procedure:**

- Any employee who has an adverse medical reaction to a work-related smallpox vaccination must file a Workers' Compensation claim using the Workers' Compensation Guidelines and Procedures as established by the County Manager.
- In the event the employee is absent from work due to the adverse reaction, the employee will be placed on Administrative Leave during the required waiting period for Workers' Compensation wage benefits, and the absence will not be counted against their accrued annual, sick, personal, or compensatory leave. The County will require the employee to obtain certification from a health care provider justifying the need for leave after the first 24 hours of leave taken pursuant to this policy.
- In the event that the employee is absent from work for more than seven days, the employee will be placed on Workers' Compensation Leave whereby they are eligible for weekly wage benefits at a rate of 66.67% of their average weekly salary rate.
- The employee may choose to supplement the Workers' Compensation weekly wage benefits by the partial use of accrued annual and/or sick leave for the remaining one third of the salary in accordance with the Workers' Compensation Leave Policy.
- Any employee who contracts vaccinia (the virus in the smallpox vaccine) by living in the same house as someone who has been vaccinated as part of the National Smallpox program, may take accrued annual, sick, or compensatory leave in accordance with the respective leave policies.

### **Section 13. Training and Educational Incentives**

Scotland County, will, if funds are available, provide reimbursement for expenses incurred in completing job-related training sessions, seminars, or workshops, which relate directly to the employees' duties and responsibilities with the County. Reimbursement for expenses will be limited to registration fees, mileage at the rate determined by the Board of Commissioners, meals and lodging.

As a condition of incurring the expense of training and/or education of an employee, the county may require the employee to execute a contract dictating the terms of the training or education. These terms include, but are not limited to, the repayment of training expenses if the employee terminates employment with the county. The repayment term of this contract is not to exceed five years of service from the completion of training or education.

### **Section 14. Employee Assistance Program**

The purpose of the Employee Assistance Program (EAP) is to provide Scotland County employees and their families with confidential rehabilitative services for the correction of emotional, psychological, psychiatric, stress-related, substance dependence, and legal problems, etc. These disorders or problems, if left uncorrected, will result in a decreased quality of life for those affected and their families and will often result in work deficiencies, including decreased productivity, increased absenteeism, unacceptable job conduct, work injuries, increased medical care usage, poor judgment and decision-making ability, work-group conflicts, poor morale, safety hazards to the public and co-workers, and negative consequences to our employees and the community.

The following EAP policy reflects Scotland County's position that employees and their family members who suffer from these problems will receive proper consideration and full opportunity for high-quality treatment through the provisions of the EAP, while concurrently providing a cost-controlled, efficient, and safe work force.

Policy: The Employee Assistance Program is paid for by Scotland County and is a component of the overall employee benefit package. Strict confidentiality is essential and will be maintained. While there may be occasions when a supervisor will suggest, or refer an employee to the EAP, the program should in no way be construed as disciplinary. It is voluntary and is provided to help the employee sort through difficulties that may affect their job performance.

Eligibility:

- All full-time and regular part-time employees are eligible
- Members of the employee's immediate household are eligible.

Self-Referrals: Employees are encouraged to utilize the EAP as the need for professional help or guidance arises and may access the EAP directly by phone. Help is available 24 hours a day, 7 days a week. No employee's job security or promotional opportunities will be jeopardized due to participation in the program. This call is absolutely confidential.

Supervisory Referrals: In those cases where it is necessary for a supervisor to refer an employee to the EAP program due to poor performance or personal conduct to avoid the necessity for disciplinary action, it is the employee's responsibility to cooperate in the designated treatment or rehabilitation plan in order to address conditions apparently causing the poor performance or personal conduct on the job. Any employee whose performance or personal conduct does not improve, or continues to deteriorate, remains subject to the normal disciplinary actions in accordance with the County's Personnel policies. The Administrative Procedure for Supervisory Referrals is available in the Personnel Director's office.

Referrals to Network Healthcare Providers: In some cases, it is necessary for an employee to be referred by the EAP to another health care provider for additional or specialized services. In these cases, the EAP professionals are well acquainted with the County's Health Plan and will make the appropriate network referral ensuring that the employee may maximize their health care benefits. Any referral expenses incurred beyond that which is covered by the insurance plan, will be the responsibility of the employee. Those potential costs will be discussed between the employee and the EAP counselor in advance to consider options for meeting the expense, and the employee has the final choice of whether to accept the referral.

Implementation of Policy: Implementation of the policy will not require or result in any special regulations, privileges, or exemptions from the County's other Personnel policies or procedures applicable to conditions of employment or job performance.

#### **Section 15. Other Benefits**

Additional deductions or benefits may be allowed at the option of the employee, under the provisions of the insurance contracts, and may be payroll deducted. These deductions include but are not limited to the following:

- A. Flex Plan - provided by Section 125 of the Internal Revenue Code, allowing employees to spend pretax dollars on insurance premiums. Also included in the Flex Plan are pretax deductions for uncovered medical expense reimbursement and day care expense reimbursement;
- B. United Way Contributions;
- C. Credit Union deductions; and
- D. Any miscellaneous insurance premiums as authorized by the Board of Commissioners.

## ARTICLE VIII. SEPARATION AND DISCIPLINARY ACTION

### Section 1. Types of Separation

All separations of employees from positions in the service of the County shall be designated as one of the following types and shall be accomplished in the manner indicated: resignation, reduction in force, disability, retirement, death or dismissal. **All department heads shall consult with the County Manager prior to implementing any separation and/or disciplinary action within their departments.** Agency directors of employees subject to State Personnel Act, as well as the Sheriff and the Register of Deeds, are encouraged to inform the County Manager prior to implementing any separation and/or disciplinary action.

### Section 2. Resignation

An employee who desires to terminate his/her employment with the County must give written notice to his/her department head, with copy to County Personnel Office, at thirty (30) days prior to his/her last intended day of employment. This must be a working notice. Annual Leave or sick leave will not count towards working notice. Any request for Personal Leave will not be approved once the resignation has been tendered. An employee who does not provide the required notification shall have recorded on his/her service record that he/she resigned without giving proper notice. Department Heads have the authority to waive or reduce the duration of the notice requirement at the point the resignation is given and accepted. Final pay will be subject to Article III, Section 15 Termination Pay. If an employee resigns and their last date of employment is the day before a holiday, the employee will only be paid through last day of work and will not receive holiday pay. **Employees who resign while serving their probationary period will forfeit any annual leave they may have accrued.** Department heads shall immediately notify the County Personnel Office upon learning of the resignation of any employee.

### Section 3. Voluntary Resignation Without Notice

An employee voluntarily terminates employment by failing to report to work without giving written or verbal notice to his/her supervisor. Such a failure shall be deemed to be a voluntary resignation from employment without notice when the employee is absent without approved leave for a period of at least three consecutive, scheduled workdays. Separation pursuant to this policy should not occur until the supervisor/department head has undertaken reasonable efforts, to locate the employee and determine when or if the employee is intending to return to work **and** supervisor/department head has consulted with the County Manager.

This provision also applies when the employee is absent for at least three consecutive, scheduled workdays, has been instructed verbally or in writing of a specific manner of reporting by management, and does not report in to the appropriate supervisory personnel on a regular basis satisfactory to the supervisor/department head.

Such separations as described above are voluntary separations from County employment and create no right of grievance or appeal pursuant to the County's personnel policy.

#### **Section 4. Separation Due to Unavailability When Leave is Exhausted**

An employee may be separated on the basis of unavailability when the employee becomes or remains unavailable for work after all applicable leave credits and benefits have been exhausted and the County does not grant a leave without pay for reasons deemed sufficient by the County Manager. (See Article VI, Section 8.) Such reasons include but are not limited to, lack of suitable temporary assistance, criticality of the position, budgetary constraints, etc. Such a separation is an involuntary separation, and not a disciplinary dismissal as described in G.S. 126-35, and may be grieved or appealed.

Prior to separation the supervisor/department head, with approval of the County Manager, shall meet with or at least notify the employee in writing, of the proposed separation, the efforts undertaken to avoid separation and why the efforts were unsuccessful. The employee shall have the opportunity in this meeting or in writing to propose alternative methods of accommodation. If the proposed accommodations are not possible, the supervisor/department head, with approval of the County Manager, must notify the employee of that fact and the proposed date of separation. If the proposed accommodation or alternative accommodations are being reviewed, the supervisor/department head, with approval of the County Manager, must notify the employee that such accommodations are under review and give the employee a projected date for a decision on this.

Involuntary separation pursuant to this policy may be grieved or appealed. The supervisor/department head, with the approval of the County Manager, must also give the employee a letter of separation stating the specific reasons for the separation and setting forth the employee's right of appeal.

#### **Section 5. Reduction in Force**

For reasons of curtailment of work, reorganization, or lack of funds the County Manager, or the appointing authority, may separate employees. Retention of employees in classes affected shall be based on systematic consideration of type of appointment, length of service, and relative efficiency. Employees who are separated because of reduction in force shall be given at least two (2) weeks notice. No regular employee shall be separated while there are emergency, intermittent, temporary, probationary, or trainee employees in their first six months of the trainee progression serving in the same or related class, unless the permanent employee is not willing to transfer to the position held by the non-regular employee, or the regular employee does not have the knowledge and skills required to perform the work of the alternate position within a reasonable period of orientation and training given any new employee. A regular employee who is separated by reduction in force may be reinstated at any time in the future that suitable employment becomes available, however, the employee must meet the current minimum education and experience standard for the class which he/she is being appointed. The employee may also be subject to a probationary period as with an initial appointment. Regular recruitment activities for positions under the appointing authority of the County Manager will be suspended until vacancies are filled by qualified employees of the County who have been separated or are subject to separation due to reduction in force.

## **Section 6. Disability**

An employee may be separated for disability when the employee cannot perform the required duties because of a physical or mental impairment. The employee or the County may initiate action for disability separation, but in all cases it shall be supported by medical evidence as certified by a competent physician and reported **immediately** to the County Manager. The County may require a physical and/or mental examination at its expense and performed by a physician of its choice. Before an employee is separated for disability, an effort shall be made to make reasonable accommodations that will allow the employee to continue working in his/her current position or to locate alternative positions within County service for which the employee may be suited. To discharge the employee the disability must be such that a reasonable accommodation cannot be made; and/or it is job-related to both major job-task functions and business necessities.

## **Section 7. Retirement**

County employees participate in and are eligible to retire under the North Carolina Local Governmental Employees Retirement System. Any employee who is planning to retire must submit a written request to the County Personnel Office three (3) months prior to the planned effective retirement date. Those employees retiring from County service shall be paid for all annual leave and "comp time" not used. Employees may apply unused sick leave to retirement credit.

## **Section 8. Death**

All compensation due an employee who dies while employed by the County will be paid to the estate of the deceased employee. The date of death shall be recorded as the separation date for computing compensation due. The County shall make every effort to notify the deceased's beneficiary or estate administrator concerning compensation to the estate. Departments shall immediately notify the County Personnel Office of an employee's death and their next of kin.

## **Section 9. Reinstatement**

Reinstatement in County service occurs when

A. An employee resigns while in good standing and later wishes to be reappointed to the same or comparable position in the same department. The reinstatement must have the approval of the appointing authority and the County Manager, and in the case of competitive service employees, in accordance with Personnel Policies for Local Government Employees Subject to the State Personnel Act.

B. An employee who enters extended active duty with the Armed Forces of the United States, the Public Health Service, or with a reserve component of the Armed Forces will be granted reinstatement rights provided under federal law.

C. Any employee who is reinstated shall not be credited with previous service however, previously accrued sick leave will be credited if reinstatement is within one year of the date of separation.

### **Section 10. Disciplinary Actions**

Any employee, regardless of occupation, position, or profession may be warned, demoted, suspended or dismissed by the department head with **the approval of the County Manager**. All disciplinary actions shall be reported in writing to the County Personnel Office immediately.

**Probationary employees:** Separation from service, without right of appeal or hearing, may occur at any time during an employee's probationary period for causes related to performance of duties or for failure in personal conduct. The probationary employee must be given notice of dismissal, including reasons. Employees who are separated from service during their probationary period shall forfeit any annual leave they have accrued.

**Regular Employees:** Disciplinary action, up to and including dismissal, may be taken against regular employees only for just cause related to unsatisfactory job performance, including grossly inefficient job performance, and unacceptable personal conduct. When just cause exists the only disciplinary actions provided for under this Section are (1) written warning; (2) disciplinary suspension without pay; (3) demotion; and (4) dismissal. Unsatisfactory or grossly inefficient job performance and unacceptable personal conduct are not mutually exclusive as certain actions by employees may fall into both categories. Violations of the County Safety Policy will constitute grounds for disciplinary action as described below. No disciplinary action shall be invalid solely because the disciplinary action is labeled incorrectly. The degree and type of action taken shall be based upon the sound and considered judgment of the appointing authority and shall comply with the procedural requirements of this Article.

A. Disciplinary Actions for Unsatisfactory Performance of Duties - Unsatisfactory work performance is work related performance that fails to satisfactorily meet job requirements as specified in the employee's job description, work plan or as directed by the supervisor, department head, and the County Manager. The intent of this section is to assist and promote improved employee performance, rather than to punish.

Verbal Counseling (education) may be given by an immediate supervisor to an employee, related to unsatisfactory job performance. This counseling should be given as soon as any failure in performance is recognized and is a pre-requisite to any performance related disciplinary action other than grossly inefficient job performance. The standards of satisfactory job performance must be clearly explained and the supervisor is expected to seek out all the facts associated with any problem in performance. The employee must be instructed as to what specific action is required to meet the job standards, the time expected to meet the standards, and what disciplinary action will result from continued failure in performance. This counseling is a non-disciplinary process and cannot be considered as a progressive disciplinary step in meeting the requirements for suspension, demotion, or dismissal.

Disciplinary actions administered under this section are intended to bring about a permanent improvement in job performance. Should the required improvement later deteriorate, or other inadequacies occur, the supervisor may deal with any additional unsatisfactory performance with further disciplinary action. This category covers all types of performance related inadequacies and does not require that successive disciplinary actions all relate to the same type of unsatisfactory performance. Disciplinary actions related to personal conduct may be included in the successive system for performance-related dismissal provided that the employee receives at least the number of disciplinary actions, regardless of the basis of the disciplinary actions, required for dismissal on the basis of inadequate performance.

In order to be dismissed for a current incident of unsatisfactory job performance an employee must first receive at least two (2) prior disciplinary actions: First, one or more written warnings; followed by a warning or other disciplinary action which notifies the employee that failure to make the required performance improvements may result in dismissal. Second, prior to the decision to dismiss an employee, the department head must conduct a pre-dismissal conference with the employee in accordance with the procedural requirements of this Section. An employee who is dismissed must receive written notice of the specific reasons for the dismissal as well as notice of any applicable appeal rights. Time limits for filing a grievance do not start until the employee receives written notice of any applicable appeal rights.

**B. Disciplinary Actions for Grossly Inefficient Job Performance** - Gross inefficiency in job performance occurs when an employee fails to satisfactorily perform job requirements as specified in the job description, work plan or as directed by the supervisor, department head and the County Manager and that failure results in

1. The creation of the potential for death or serious harm to a client(s), an employee(s), members of the public or to a person(s) over whom the employee has responsibility; or
2. The loss of or damage to County property or funds that creates a serious impact on the County, the department and or work unit.

Dismissal on the basis of grossly inefficient job performance is administered in the same manner as for unacceptable personal conduct. Employees may be dismissed on the basis of a current incident of grossly inefficient job performance without any prior disciplinary action. However, the supervisor may elect to use the progressive disciplinary steps as described in this Section.

Prior to dismissal of a regular employee on the basis of grossly inefficient job performance, there shall be a pre-dismissal conference between the employee and the department head. This conference shall be held in accordance with procedural requirements of this Article.

**C. Disciplinary Actions for Failure in Personal Conduct** - In order to avoid undue disruption of work, to protect the safety of persons or property, and/or for other serious reasons, an employee may be suspended, demoted, or dismissed for causes relating to unacceptable personal conduct. The following definitions are representative and not meant to be an exclusive list of conduct considered to be adequate grounds for suspension, demotion or dismissal: Unacceptable personal conduct is conduct for which no reasonable person should expect to receive prior warning; or job related conduct which constitutes a violation of state or federal law; or conviction of a felony or an offense involving moral turpitude that is detrimental to or impacts the employee's service to

the County; or the willful violation of known or written work rules; or conduct unbecoming an employee that is detrimental to the County's service; or the abuse of client(s), patient(s), student(s) or a person(s) over whom the employee has charge or to whom the employee has a responsibility, or of an animal owned or in the custody of the County; or the use and/or possession of any illegal drug, the misuse of legally prescribed drugs, and the use and/or possession of illegally obtained prescription drugs, and the use and/or possession of alcohol; or the unauthorized and/or illegal use and/or possession of a weapon; or falsification of an employment application or other employment documentation; or absence from work after all authorized leave credits and benefits have been exhausted; or insubordination, which is the willful failure or refusal to carry out a reasonable order from an authorized supervisor. Insubordination is considered unacceptable personal conduct for which any level of discipline, including dismissal may be imposed without prior warning.

Employees may be dismissed on the basis of a current incident of unacceptable personal conduct without any prior disciplinary action. However, the supervisor may elect to use the progressive disciplinary steps as described in this Section. Prior to dismissal of an employee on the basis of unacceptable personal conduct, there shall be a pre-dismissal conference between the employee and the department head. This conference shall be held in accordance with procedural requirements of this Article.

#### D. Disciplinary Actions Related to HIPAA Privacy Rule Violations

Purpose: It is the intent of Scotland County for all employees to follow department policies and procedures related to the privacy of health information as outlined in the HIPAA Privacy rules. Each employee will ensure they conduct county business in a manner that protects client's health information and does not intentionally or unintentionally disclose or discuss this information without client consent. The privacy rules require disciplinary action to be taken when there is a violation of HIPAA.

Policy: Scotland County employees who are exposed to protected health information in the course of their employment will not share, disclose or discuss this information with any other individual unless such disclosure is necessary for payment, treatment or operational purposes as outlined in the HIPAA regulations. If a disclosure is made intentionally or unintentionally, personnel action will occur based upon the nature of the violation.

#### Procedure:

1. Any employee having knowledge of a possible intentional or unintentional HIPAA Privacy violation will report such violation immediately to the Department Privacy Officer.
2. Department Privacy Officer and Agency Director will investigate violation.
3. If violation is substantiated, Department Privacy Officer will notify client of violation according to department policy and procedure.
4. Department Privacy Officer, Department Director and County Privacy Officer will consult with County Personnel Officer and when appropriate, Office of State Personnel, to develop an appropriate personnel action plan according to the nature of the violation.
5. If violation was unintentional, employee will receive a verbal counseling with the understanding that should another violation occur in this manner, formal disciplinary action will

occur, in accordance with the procedures described in Article VIII of the Scotland County Personnel Policy.

6. If violation was intentional, employee will receive formal disciplinary action. An intentional violation is an unacceptable personal conduct issue related to job related conduct that violates a federal law. It may also be deemed insubordination when an employee willfully violates agency policies and procedures related to the HIPAA privacy rules.

7. Any level of discipline may be imposed for unacceptable personal conduct without prior warning to include a written warning, suspension or immediate termination.

NOTE: Any disciplinary action will be issued in accordance with the Scotland County Personnel Policy or, as applicable, the Personnel Policy for Local Government Employees Subject to the State Personnel Act.

#### E. Progressive Disciplinary Steps and Procedural Requirements

1. **Written Warning:** The supervisor shall monitor and promote the satisfactory performance of work assignments and acceptable standards of personal conduct. All types of performance related job inadequacies could constitute unsatisfactory job performance under this Article. Unacceptable personal conduct can be work related or non-work related conduct and may be intentional or unintentional. When the supervisor determines that disciplinary action is appropriate for unsatisfactory job performance, a written warning is the first type of disciplinary action that an employee must receive. The supervisor *may elect* to issue a written warning for grossly inefficient job performance or unacceptable personal conduct. A written warning detailing the matters listed below must be issued in accordance with the procedural requirements of this Section including any applicable appeal rights. The written warning must:

- a. inform the employee that this is a written warning and not some other non-disciplinary process such as counseling;
- b. inform the employee of the specific issues that are the basis for the warning;
- c. Include a written corrective action plan that addresses the following:
  - Tells the employee what specific improvements, if applicable, must be made to address these specific issues;
  - Tells the employee the time frame allowed for making the required improvements/corrections. Absent a specified time frame, 60 days is the time frame allowed for correcting unsatisfactory job performance. Immediate correction is required for grossly inefficient job performance or unacceptable personal conduct.
  - Tells the employee the consequences of failing to make the required improvements/corrections and complying with the corrective action plan.

2. **Disciplinary Suspension Without Pay:** An employee may be suspended without pay for disciplinary purposes for unsatisfactory job performance after the receipt of at least one prior disciplinary action. An employee may be suspended without pay at any time for unacceptable personal conduct or grossly inefficient job performance. An employee who has been suspended without pay must be furnished a statement in writing setting forth the specific acts or omissions that are the reasons for the suspension and the employee's appeal rights.

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

pay for an employee who is exempt from the overtime compensation provisions of the FLSA must be for at least one full work week, but not more than two full work weeks. Prior to placing any employee on disciplinary suspension without pay the department head shall conduct a pre-suspension conference with the employee in accordance with the procedural requirements for pre-dismissal conference of this Section.

To place an employee on disciplinary suspension without pay, the department head must comply with the following procedural requirements:

a. In matters of unsatisfactory job performance, the employee must have received at least one prior disciplinary action. In matters of grossly inefficient job performance or unacceptable personal conduct no prior disciplinary actions are required so an employee may be suspended without pay for a current incident of grossly inefficient job performance or unacceptable personal conduct.

b. Schedule and conduct a pre-suspension conference. Advance oral or written notice of the conference must be given to the employee of the time, location, and the issue for which discipline has been recommended. The amount of advance notice should be as much as is practical under the circumstances.

c. Furnish the employee a statement in writing setting forth the specific acts or omissions that are the reasons for the suspension.

d. Advise the employee of any applicable appeal rights in the document affecting the suspension.

3. **Disciplinary Demotion:** Any employee may be demoted as a disciplinary measure. Disciplinary demotions may be accomplished in three (3) ways: (1) The employee may be demoted to a lower pay grade with a reduction in salary rate as long as the new salary rate does not exceed the maximum of the salary range for the new lower pay grade; (2) The employee may be demoted to a lower pay grade without a reduction in salary rate as long as the salary rate does not exceed the maximum of the salary range for the new lower pay grade; or (3) The employee may be demoted while retaining the same pay grade with a reduction in salary rate. In no event shall an employee's salary rate be reduced to less than the minimum salary rate for the applicable pay grade or the special entry rate, if in effect.

Prior to the decision to demote an employee for disciplinary reasons, the department head must conduct a pre-demotion conference with the employee in accordance with the procedural requirement for pre-dismissal conference in this Section. Advance oral or written notice of the conference must be given to the employee of the time, location, and the issue for which discipline has been recommended. The amount of advance notice should be as much as is practical under the circumstances. Demotion may be made on the basis of either unsatisfactory or grossly inefficient job performance or unacceptable personal conduct.

a. **Unsatisfactory Job Performance:** An employee may be demoted for unsatisfactory job performance after the employee has received at least one prior disciplinary action.

b. **Grossly Inefficient Job Performance:** An employee may be demoted for grossly inefficient job performance without any prior disciplinary action.

c. **Unacceptable Personal Conduct:** An employee may be demoted for unacceptable personal conduct without any prior disciplinary action.

An employee who is demoted must receive written notice of the specific reasons for the demotion; how and to what extent the demotion will affect the employee's salary rate or pay grade; and notice of any applicable appeal rights.

4. **Dismissal:** Before an employee may be dismissed the following shall occur:

a. The supervisor recommending dismissal shall discuss the recommendation with the department head who shall conduct a pre-dismissal conference with the employee in accordance with the process below. (The person conducting the pre-dismissal conference must have the authority to decide what, if any, disciplinary action should be imposed on the employee.)

b. Advance written notice of the pre-dismissal conference must be given to the employee of the time, location, and the issue for which dismissal has been recommended. The amount of advance notice should be as much as is practical under the circumstances.

c. The department head shall conduct a pre-dismissal conference with the employee, limiting attendance to the employee and the person conducting the conference; a second management representative may be present at management's discretion. The purpose of the pre-dismissal conference is to review the recommendation for dismissal with the affected employee and to listen to and to consider any information put forth by the employee in order to insure that a dismissal decision is sound and not based on misinformation or mistake. Security personnel may be present when, in the discretion of the person conducting the conference, a need for security exists. No attorneys representing either side may attend the conference.

d. In the conference the department head shall give the employee oral or written notice of the recommendation for dismissal, including specific reasons for the proposed dismissal and a summary of the information supporting that recommendation. The employee shall have an opportunity to respond to the proposed dismissal action and to offer information or arguments in support of the employee's position. Every effort shall be made by management to assure that the employee has a full opportunity during the conference to set forth any available information in opposition to the recommendation to dismiss. This opportunity does not include the option to present witnesses.

e. Following the conference, management shall review and consider the response of the employee and reach a decision on the proposed recommendation. If management's decision is to dismiss the employee, a written letter of dismissal containing the specific reasons for dismissal, the effective date of the dismissal and the employee's appeal rights shall be issued to the employee in person or by certified mail, return receipt requested, to the last known address of the employee. To minimize the risk of dismissal upon erroneous information, and to allow time following the conference for management to review all necessary information, the decision to dismiss should not be communicated to the employee in accordance with this subparagraph prior to the beginning of the next business day following the conclusion of the pre-dismissal conference or after the end of the second business day following the completion of the pre-dismissal conference.

f. The effective date of a dismissal for unsatisfactory job performance shall be determined by management. A regular employee who is dismissed for unsatisfactory job performance may, at management's discretion, be given up to two weeks working notice of his/her dismissal. Instead of providing up to two weeks working notice and at the discretion of management an employee may be given up to two weeks pay in lieu of the working notice. Such working notice or pay in lieu of notice is applicable only to dismissals for unsatisfactory job

performance. The effective date of the dismissal shall not be earlier than the letter of dismissal nor more than 14 calendar days after the notice of dismissal.

5. **Placement on Investigation** - Investigation status is used to temporarily remove an employee from work status. Placement on investigation with pay does not constitute a disciplinary action as defined in this Article. It is permissible to place an employee in investigation status with pay only under the following circumstances: (a) To investigate allegations of performance or conduct deficiencies that would constitute just cause for disciplinary action; (b) To provide time within which to schedule and conduct a pre-disciplinary conference; or (c) To avoid disruption of the work place and/or to protect the safety of persons or property.

The department head must notify an employee in writing of the reasons for investigatory placement not later than the second scheduled workday after the beginning of the placement. An investigatory placement with pay may last no longer than thirty (30) calendar days without written notice of extension by the department head. When an extension beyond the thirty (30) day calendar period is required, the agency must advise the employee in writing of the extension, the length of the extension, and the specific reasons for the extension. If the department by the end of the thirty (30) calendar day period has taken no action and no further extension has been imposed, the department must either take appropriate disciplinary action on the basis of the findings upon investigation or return the employee to active work status. Under no circumstances is it permissible to use placement on investigation status for the purpose of delaying an administrative decision on an employee's work status pending the resolution of a civil or criminal court matter involving the employee.

#### **Section 11. Inactivating Disciplinary Action**

Any disciplinary action issued after the effective date of this section is deemed inactive in the event that

- A. the department head or supervisor notes in the employee's personnel file that the reason for the disciplinary action has been resolved or corrected; or
- B. eighteen (18) months have passed since the first warning or disciplinary action during which the employee does not have another active warning or disciplinary action and the department head has not issued to the employee written notice of an extension to the disciplinary period.

#### **Section 12. Credentials**

By statute, and rule, some duties assigned to positions may be performed only by persons who are duly licensed, registered or certified as required by the relevant provision. All such requirements and restrictions are specified in the statement of essential qualifications or recruitment standards in the position description for the position.

A. Employees in such classifications are responsible for obtaining and maintaining current, valid credentials as required by law. Failure to obtain or maintain the legally required credentials constitutes a basis for immediate dismissal without prior warning, consistent with dismissal for unacceptable personal conduct or grossly inefficient job performance. An employee who is dismissed for failure to obtain or maintain credentials shall be dismissed under the procedural

requirements applicable to dismissals for unacceptable personal conduct or grossly inefficient job performance.

B. Falsification of employment credentials or other documentation in connection with securing employment constitutes just cause for disciplinary action. When credential or work history falsification is discovered after employment with the County, disciplinary action shall be administered as follows:

1. If an employee was determined to be qualified and was selected for a position based upon falsified work experience, education, registration, licensure, or certification information that was a requirement for the position, the employee shall be dismissed under procedural requirements applicable to dismissals for unacceptable personal conduct or grossly inefficient job performance.

2. In all other cases of post-hiring discovery of false or misleading information, disciplinary action will be taken, but the severity of the disciplinary action shall be at the discretion of the department head.

3. When credential or work history falsification is discovered before employment the applicant shall be disqualified from consideration for the position in question.

### **Section 13. Right of Appeal**

An employee with regular status who has been demoted, suspended or dismissed shall have fifteen (15) calendar days from the date of his/her receipt of written notice of such action to file an appeal under the County's grievance procedure as described in Article IX of this manual.

**Warnings, extension of disciplinary actions and periods of placement on investigation with pay are not grievable.**

## **ARTICLE IX. GRIEVANCE PROCEDURES**

### **Section 1. Purpose**

The purpose of Scotland County's grievance procedure is to provide an adequate and fair means for hearing matters of concern to County employees.

### **Section 2. Coverage**

The provisions of this procedure shall apply to all departments and all regular status employees of Scotland County.

### **Section 3. Grievance - Definition**

A grievance is any matter of concern or dissatisfaction arising from the working conditions of an employee, subject to the control of the County.

### **Section 4. Policy**

Every employee shall have the right to present a grievance in accordance with these procedures, with or without a representative, free from interference, coercion, restraint, discrimination, penalty, or reprisal. Employees will be allowed such time off from their regular duties as may be necessary and reasonable as determined by the department head or the County Manager to prepare and present a grievance.

### **Section 5. Grievance Procedure**

A. **Step One** - An employee with a grievance shall present the matter orally or in writing to his/her immediate supervisor within fifteen (15) calendar days of the date of the incident-giving rise to the grievance. The grievance shall state concisely the basis for the complaint. The immediate supervisor shall meet with the employee within five (5) work days of receipt of the grievance and attempt to resolve the grievance informally. If informal resolution efforts fail, the immediate supervisor shall issue a written decision on the grievance not later than five (5) work days following the meeting. If the grievance is based on alleged discrimination, indicate whether the alleged discrimination was based on race, color, religion, sex, national origin, political affiliation, non-disqualifying handicap, or age. If the employee alleges sexual harassment by the immediate supervisor, the employee may file the complaint with the County Personnel Director as set forth in Article V, Section 4.

For employees subject to the State Personnel Act (SPA), grievances which allege discrimination, including sexual harassment, may, at the election of the employee, proceed through the County procedure or proceed directly to the State Personnel Commission (SPC) for a hearing by the Office of Administrative Hearings (OAH) and a decision by the SPC. A direct appeal to the SPC (such appeal involving a contested case hearing by the OAH and a recommended decision by that agency to the SPC) alleging discrimination must be filed in accordance with G.S. 150B-23

and must be filed within thirty (30) calendar days of receipt of notice of the alleged discriminatory act.

If the grievance concerns an appeal of a demotion, suspension, or dismissal, it shall be filed directly with the appointing authority at Step Three within fifteen (15) calendar days from the date of the receipt of written notice of such action.

**B. Step Two** - If the employee is not satisfied with the decision of his/her immediate supervisor he/she may appeal to the department head, in writing, within five (5) work days of receipt of the immediate supervisor's written decision. The department head shall meet with the employee within five (5) work days of receipt of the Step Two grievance, shall review the decision at Step One, and shall make an independent determination on the merits of the grievance. Within ten (10) calendar days of the meeting with the employee, the department head shall issue a written decision.

**C. Step Three** - If the employee is dissatisfied with the response from Step Two, the employee may forward the written grievance to the County Manager or the corresponding appointing authority (Sheriff, Register of Deeds, Health Director, DSS Director, Elections Director), whichever is applicable, within five (5) work days of receipt of the Step Two decision. The County Manager or the other appointing authority will render a written decision within fifteen (15) calendar days of receipt of the grievance. For employees who are under the County Manager's appointing authority, this is the final decision.

**D. Step Four** - If the employee's appointing authority is other than the County Manager and he/she is not satisfied with the response from the appointing authority, the employee may file a written grievance with the County Manager within five (5) work days of receipt of the appointing authority's decision. The County Manager will render a written decision within fifteen (15) calendar days of receipt of the grievance. The decision of the County Manager, in this appeal, shall be advisory to the appointing authority. Upon receiving the recommended decision of the County Manager, the appointing authority shall inform the employee in writing of the final decision. The final decision will be furnished within ten (10) calendar days of receipt of the recommended decision of the County Manager.

**E.** Employees subject to the jurisdiction of the North Carolina State Personnel Commission shall have the right to appeal to the State Personnel Commission through the Office of Administrative Hearings no later than thirty (30) calendar days after receipt of notice of the appointing authority's decision, provided that the employee has obtained permanent status in accordance with the rules and regulations of the State Personnel Commission. The decisions of the State Personnel Commission shall be binding in appeals of local employees subject to the State Personnel Act if the commission finds that the employee has been subjected to discrimination or if a binding decision is required by applicable federal standards. However, in all other local employee appeals, the decision of the State Personnel Commission shall be advisory to the local appointing authority.

**Section 6. Late Filing of Grievances**

Grievance filed on an untimely basis must be dismissed. Allegations of discrimination, if raised more than thirty (30) calendar days after the party alleging discrimination became aware or should have become aware of the alleged discrimination, must be dismissed.

**Section 7. Maintenance of Records**

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

**Section 8. Other Remedies Preserved**

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

## **ARTICLE X. PERSONNEL RECORDS**

### **Section 1. Personnel Records Maintenance**

The Personnel Office shall be responsible for maintaining such personnel records as are necessary for the proper administration of the personnel system. The County shall maintain in personnel records only information that is necessary and relevant to accomplishing legitimate personnel administration needs.

### **Section 2. Information Open to the Public**

The following information on each County employee is public information:

- A. Name
- B. Age
- C. Date of original employment or appointment to County service
- D. Current position title
- E. Current salary
- F. Date and amount of most recent change in salary
- G. Date of most recent promotion, demotion, transfer, suspension, separation, or other change in position classification
- H. Department and office to which the employee is currently assigned.

### **Section 3. Access to Personnel Records**

As required by North Carolina General Statute 153A-98 any person may have access to the information listed in Section 2 of this Article for the purpose of inspection, examination, and copying during the regular business hours, subject only to such rules for the safekeeping of public records as the of Board of Commissioners may adopt. Any person denied access to such information should have a right to compel compliance with these provisions by application to a court for writ of mandamus or other appropriate relief.

### **Section 4. Confidential Information**

All information contained in a County employee's personnel file, other than the information listed in Section 2 of this article will be maintained as confidential in accordance with the requirement of G.S. 153A-98) and shall be open to public inspection only in the following instances:

- A. The employee or his/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 his/her patient.
- B. A licensed physician designated in writing by the employee may examine the employee's medical record.

C. A County employee having supervisory authority over the employee may examine all material in the employee's personnel file;

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

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

F. Each individual requesting access to confidential information will be required to submit satisfactory proof of identity;

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

#### **Section 5. Records of Former Employees**

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

#### **Section 6. Remedies of Employees Objecting to Material in File**

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

#### **Section 7. Penalty for Permitting Access to Confidential File by Unauthorized Person**

G.S. 153A-98 provides that any public official or employee who knowingly and willfully permits any person to have access to any confidential information contained in an employee personnel file, except as expressly authorized by the designated custodian, may be judged guilty of a misdemeanor and upon conviction shall be fined in an amount not to exceed five hundred dollars (\$500.00).

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

No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with G.S. 121-5, without the consent of the North Carolina Department of Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or whoever alters, defaces, mutilates or destroys it will be guilty of a misdemeanor and upon conviction will be fined not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00) as provided in G. S. 132-3.

## **ARTICLE XI. IMPLEMENTATION OF POLICY**

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

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

### **Section 2. Separability**

If any provision of this policy is held invalid, the remainder of this policy and the application of such remaining provisions of this policy, other than those held invalid would not be affected.

### **Section 3. Violations of Policy Provision**

An employee violating any of the provisions of this policy or administrative policies as approved by County Manager may be subject to suspension and/or dismissal, in addition to any civil or criminal penalty, which may be imposed for the violation.

### **Section 4. Amendments**

Amendments to these personnel policies shall be recommended by the County Manager and approved by the Scotland County Board of Commissioners.

### **Section 5. Administrative Policies**

The County Administrative Staff will issue administrative policies relating to the implementation of this policy periodically. The County Manager shall approve administrative policies and any changes required

### **Section 6. Effective Date**

This policy is effective as of June 5, 2006.

AMENDMENTS ARE AS FOLLOWS:

ARTICLE VII. EMPLOYMENT BENEFITS, Section 8. Law Enforcement Officers' Separation Allowance (Amended October 4, 2006)

ARTICLE III. THE PAY PLAN, Section 3. Administration (Amended January 8, 2007)

ARTICLE VI. LEAVES OF ABSENCE, Section 7. A. 2 Sick Leave (Amended March 13, 2007)

ARTICLE IV. RECRUITMENT AND SELECTION STANDARDS, Section 7.5 Residency Requirement (Amended July 9, 2007)

ARTICLE III. THE PAY PLAN, Section 12, Overtime, Parts E, H, and adding J and K  
(Amended October 6, 2008)

ARTICLE VI. LEAVES OF ABSENCE, Section 5. Adverse Weather Conditions. (Amended  
October 6, 2008)