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JIMMY KEEFE
LARRY L. LANCASTER



CUMBERLAND ★ COUNTY ★ NORTH CAROLINA

BOARD OF COMMISSIONERS

CANDICE WHITE
Clerk to the Board

KELLIE BEAM
Deputy Clerk

MEMORANDUM

TO: Policy Committee Members (Chairman Council, Adams, Evans and Lancaster)

FROM: Kellie Beam, Deputy Clerk to the Board

DATE: May 27, 2016

SUBJECT: Policy Committee Meeting – June 2, 2016

There will be a regular meeting of the Policy Committee on Thursday, June 2, 2016 at 10:30 AM in Room 564 of the Cumberland County Courthouse.

AGENDA

1. Approval of Minutes – May 5, 2016 Policy Committee Regular Meeting **(Pg. 2)**
2. Consideration of Approval of Jail Health Medical Plan Changes **(Pg. 6)**
3. Consideration of Approval of Revised Cumberland County Personnel Ordinance **(Pg. 9)**
4. Consideration of Approval of Revision to Rule 24 of the “Wrecker and Tow Service Rules and Regulations” **(Pg. 47)**
5. Consideration of Approval of Renovations to Section 3-75 of the Animal Control Ordinance Regarding Horses and Roosters at the Request of the City of Fayetteville **(Pg. 48)**
6. Other Items of Business **(No Materials)**

cc: Board of Commissioners
Administration
Legal
Communications Manager
County Department Head(s)
Sunshine List

CUMBERLAND COUNTY POLICY COMMITTEE
COURTHOUSE, 117 DICK STREET, 5TH FLOOR, ROOM 564
MAY 5, 2016 – 10:30 A.M.
MINUTES

MEMBERS PRESENT: Commissioner Glenn Adams
Commissioner Jeannette Council
Commissioner Charles Evans
Commissioner Larry Lancaster

OTHER COMMISSIONERS
PRESENT: Commissioner Jimmy Keefe
Commissioner Kenneth Edge

OTHERS PRESENT: Amy Cannon, County Manager
James Lawson, Deputy County Manager
Tracy Jackson, Assistant County Manager
Melissa Cardinali, Assistant County Manager for Finance/
Administrative Services
Sally Shutt, Governmental Affairs and Public Information
Officer
Rick Moorefield, County Attorney
Vicki Evans, Finance Director
Rebecca Rogers-Carter, City of Fayetteville
Candice White, Clerk to the Board
Kellie Beam, Deputy Clerk to the Board
Press

Commissioner Council called the meeting to order.

1. APPROVAL OF MINUTES – APRIL 7, 2016 POLICY COMMITTEE

MOTION: Commissioner Council moved to approve the minutes.
SECOND: Commissioner Adams
VOTE: UNANIMOUS (4-0)

2. CONSIDERATION OF APPROVAL OF A JOINT PARTNERSHIP WITH THE
CITY OF FAYETTEVILLE FOR FEDERAL ADVOCACY SERVICES

BACKGROUND

Cumberland County and the City of Fayetteville would like to partner in the development of a joint federal action plan and hire consultants Leslie C. Mzingo and Ronald K. Hamm to assist with developing the strategy and providing advocacy services.

DRAFT

This will be a year of change on the federal front. Congressional redistricting has placed Cumberland County within two redrawn districts and a new president will be elected in November 2016. With the full board's approval, the consultants would start June 1, 2016.

The City and County would split the \$6,000 per month fees from June 2016 through February 2017. The total cost would be \$54,000 and the County's share would be \$27,000, which is available in the Governmental Affairs budget. From March 2017 through December 2017, the professional fees would be determined by the number of priority projects the partnership chooses to pursue as identified in the Federal Action Plan. Mozingo and Hamm estimate that to be \$2,000 per priority project each month.

The scope of services includes:

- Collaborate with the Partnership's management and elected officials to develop a Federal Action Plan (FAP), including federal resources and policies to advance priorities.
- Arrange and participate in regularly scheduled conference calls to develop and discuss strategies.
- Notify the Partnership of legislation impacting local governments, federal agency announcements, White House initiatives, and other potential opportunities/threats, as well as anticipated timelines.
- Provide regular notices of federal competitive grant opportunities.
- Review and recommend improvements to competitive grant applications and develop strategies to make them more competitive and increase success rates.
- Recommend key federal contacts to make, the timing and method of communication to use, and strategies for action, in order to advance priorities.
- Develop briefing materials and talking points for meetings and phone calls with federal officials.
- Provide federal advocacy advice both proactively and in reaction to all requests from the Partnership's leadership.
- Engage with other federal advocacy associations (i.e. National League of Cities, National Association of Counties, etc.)
- Report frequently on progress and results.
- Serve as a resource to local elected officials.

Partnering with the City of Fayetteville on a Federal Action plan will assist the County with two strategic objectives: improving communications and collaboration between the County and other governmental entities and developing a flexible, proactive approach to the expansion and contraction of the military.

RECOMMENDATION/PROPOSED ACTION

Approve partnering with the City of Fayetteville in establishing a federal action plan and jointly hiring Strategies Consulting and Hamm Consulting Group to perform federal advocacy services.

DRAFT

Sally Shutt, Governmental Affairs and Public Information Officer, reviewed the background information and recommendation as recorded above. Ms. Shutt introduced Rebecca Rogers-Carter, Strategic Performance Analytics Director from the City of Fayetteville, who works with Ms. Shutt on the federal legislative agenda and the federal advocacy plan.

Ms. Shutt stated for over a decade Cumberland County, the City of Fayetteville and the Chamber of Commerce formed a partnership for a federal legislative program and annually established a federal agenda focusing on earmarks and funding sources to meet specific needs within our community. Ms. Shutt further stated over the years the process has changed and the results have continued to evolve with those changes. Ms. Shutt stated over the years there has been increased focus on competitive grants and working directly with the federal agencies. Ms. Shutt stated the past contracts were for twelve (12) months and were very broad. Ms. Shutt further stated the new proposal will provide greater flexibility.

Ms. Shutt stated this year with the Congressional redistricting and local changes with economic development, the Memorandum of Understanding with the City of Fayetteville and the Chamber of Commerce that was approved in 2013 needs to be revised. Ms. Shutt stated in the recommended proposal with Leslie Mazingo and Ronald Hamm once a federal action plan is established they will work to prevent reduction or elimination of programs that meet the needs of Cumberland County and the City of Fayetteville.

Commissioner Adams stated he does not believe we have received many tangible results from the federal lobbying efforts and he does not want to spend money and not receive anything in return. Commissioner Adams stated he would rather see payment made based on outcome. Commissioner Adams further stated he is not ready to move forward with the recommended proposal and stated it has nothing to do with the partnership with the City of Fayetteville and has more to do with the uncertainty in Washington, D.C., right now. Commissioner Keefe agreed with Commissioner Adams and stated he also believes we have not received much return from the federal lobbyist in the past. Ms. Cannon stated staff is looking for guidance on how to move forward with developing a federal agenda.

Commissioner Evans stated he does not believe this is a good time to work for federal funding. Commissioner Edge stated he would like to partner with the City of Fayetteville but he prefers that we delay any kind of federal advocacy at this point and time because there is no money available.

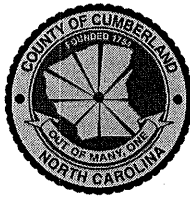
Ms. Cannon stated staff would withdraw this request today and let Ms. Shutt monitor the situation and work internally with the Policy Committee as we move forward closer to the election this fall 2016. Ms. Cannon further stated if staff sees a need this item will be brought back to the Policy Committee. The consensus of the Policy Committee was to delay this item until staff recommends that it be reconsidered. No action taken was taken.

DRAFT

3. OTHER ITEMS OF BUSINESS

No other items of business.


MEETING ADJOURNED AT 11:04 AM



CUMBERLAND
★ **COUNTY** ★
NORTH CAROLINA

DEPARTMENT OF PUBLIC HEALTH

**MEMO FOR THE AGENDA OF THE JUNE 2, 2016
MEETING OF THE POLICY COMMITTEE**

To: Policy Committee Members
From: Buck Wilson, Public Health Director 
Through: James Lawson, Deputy County Manager
Date: May 24, 2016
Subject: Consideration of Jail Health Medical Plan Changes

Requested by: Buck Wilson
Presenter(s): Wanda Tart, Director of Nursing
Kim McLamb, Jail Health Administrator
Estimate of Committee Time Needed: 15 minutes

BACKGROUND:

Wanda Tart and Kim McLamb will be doing a brief overview of the significant changes to the Jail Health Medical Plan, since the last adoption of the Plan in May 2015. The revisions which are outlined on the attached, have been reviewed and agreed upon by all relevant parties and approved by me. The Jail Health staff works closely with the Sheriff's Detention Facility staff to manage this document on an ongoing basis.

The manual provides the plan for providing medical care for inmates at the Cumberland County Detention Center. The plan is designed to protect the health and welfare of the inmates, avoid the spread of contagious diseases, provide for medical supervision of inmate and emergency medical care for the inmates to the extent necessary for their health and welfare, and provide for the detection, examination and treatment of inmates who are infected with tuberculosis or venereal diseases. It includes a procedure in the event of a death and discharge planning for patients to another facility.

The plan complies with 10A NCAC 14J.1001 titled Medical Plan. NC G.S. 153A-225 states the plan must be adopted by the governing body.

The plan is updated each year to remain compliant with standards and procedural changes.

The revised plan will be available for review in the Clerk's office until approved by the Board of County Commissioners.

RECOMMENDATION/PROPOSED ACTION:

Approve the Jail Health Medical Plan.

Attachment

Revisions made to 2015 Jail Health

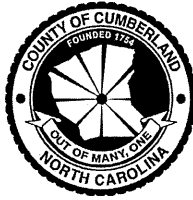
Medical Plan Policy and Procedure Manual

Revisions/Additions Needed to Continue Accreditation by National Commission on Correctional Health Care		Cumberland County Jail Health Medical Plan, Policy and Procedure Manual (with markups)
Standards for Health Services in Jails 2014	Compliance Indicator	Page on which revision was made
JA06 Continuous Quality Improvement	4	8
JA07 Emergency Response Plan	2 and 3	10 , 11
JA10 Procedure in the Event of an Inmate Death	2. a, b, and c	13
JB01 Infection Prevention and Control Program	4	16
JC02 Clinical Performance Enhancement	1 and 2	44, 45
JC04 Health Training for Correctional Officers	1. g and h, 3,4	47
JC05 Medication Administration Training	2	48
JC06 Inmate Workers	Not addressed in 2015 Medical Plan	49
JC09 Orientation for Health Staff	1 and 2	52
JD01 Pharmaceutical Operations	2, 4, 6, 10, 11	55, 56
JD02 Medication Services	2 and 5	57
JD03 Clinic Space, Equipment and Supplies	4, 6, 8, 9, 10	58, 59
JD04 Diagnostic Services	3	60
JD05 Hospital and Specialty Care	2 and 3	61
JE02 Receiving Screening	4, 5, 10, 11, 12	65
JE05 Mental Health Screening	1	69
JE08 Emergency Services	2	73
JE09 Segregated Inmates	6	80
JE11 Nursing Assessment Protocols	2. a, b, c, and d	83
JF01 Health Lifestyle Promotion	2	88
JF02 Medical Diets	2 and 3	89
JF03 Use of Tobacco	2	92
JG02 Patients with Special Needs	3	97
JG04 Basic Mental Health Services	2. b, d and 5	100
JG05 Suicide Prevention Program	2.f,k; 4 and 5	102, 103
JG07 Intoxication and Withdrawal	7 and 8	104 - 108
JG08 Contraception	Not Addressed in 2015 Medical Plan	108
JG09 Counseling and Care of the Pregnant Female	3	108, 109

Continued		
Revisions/Additions Needed to Continue Accreditation by National Commission on Correctional Health Care		Cumberland County Jail Health Medical Plan, Policy and Procedure Manual (with markups)
Standards for Health Services in Jails 2014	Compliance Indicator	Page on which revision was made
JG11 Care for the Terminally Ill	Not addressed in 2015 Medical Plan	112
JH03 Management of Health Records	3	119
JH04 (Actually JI04) End-of-Life Decision Making	1	126
JI01 Restraint and Seclusion	1. b, d, e, f	121, 122
JI02 Emergency Psychotropic Medication	Not addressed in 2015 Medical Plan	123, 124
JI06 Medical and Other Research	Not addressed in 2015 Medical Plan	128

Revisions made to reflect requirements for Juveniles	
Standards for Health Services in Jails 2014	Cumberland County Jail Health Medical Plan, Policy and Procedure Manual (with markups) Page on which revision was made
JB05 Response to Sexual Abuse	38
JE04 Initial Health Assessment	68
JE06 Oral Care	70
JG02 Patients with Special Needs	97

RICKEY L. MOOREFIELD
County Attorney



ITEM NO. 3.

PHYLLIS P. JONES
Assistant County Attorney

ROBERT A. HASTY, JR.
Assistant County Attorney

OFFICE OF THE COUNTY ATTORNEY

5th Floor, New Courthouse • P.O. Box 1829 • Suite 551 • Fayetteville, North Carolina 28302-1829
(910) 678-7762

MEMO

TO: Deputy Co. Manager James Lawson
FROM: Co. Atty. *R. Moorefield*
DATE: May 25, 2016
SUBJECT: Draft of Revised Personnel Ordinance Requested by County Manager
for June 2, 2016, Policy Committee (draft is attached)

Requested by: County Manager
Estimate of Time Needed: As Needed by Committee

BACKGROUND:

The county's personnel ordinance has not been comprehensively updated since 1998, though there have been numerous amendments since that time with the last amendment having just been adopted March 15, 2016. This proposed ordinance incorporates the recent amendments, revises some provisions of the existing ordinance, eliminates some provisions from the existing ordinance that have not been followed in years, adds a few new provisions and makes the ordinance provisions consistent with the practices currently being used for the administration of the county's personnel system.

The only significant substantive change in the proposed ordinance is that it greatly expands the authority of the county manager to establish policies to administer the county's personnel system. It is not intended to create a personnel system that that will qualify as substantially equivalent to the state system that is applied to county employees in DSS and the Health Department; however, since those employees constitute approximately one-third of the county's employees, the proposed ordinance does adapt more of the state personnel system's requirements than the existing ordinance does.

The differences between the old and proposed ordinances are discussed as follows:

Article I: In General

Section 102: The list of classes covered by federal and state equal employment opportunity laws and regulations has been updated to conform to the current law.

Section 103: The applicability of the ordinance to the special classes of employees among the many departments has been revised to accurately reflect all the special classes of employees.

Article II: Position Classification Plan

Although the language has been revised, there are no substantive changes affecting the requirements for the position classification plan.

Article III: Salary Plan

Section 301: This is a new provision that states the statutory requirement that the board of commissioners must fix all pay schedules, expense allowances and other compensation as the guiding principle for the salary plan. Because of this state law, personnel policies that establish any form of compensation must be approved by the board of commissioners.

Section 304: A new provision is added to authorize training appointments for DSS and Health Department employees that comply with the provisions of the state's personnel system that apply to these employees. Subsection (6) is added because this form of salary adjustment has been used since 1998 under the authority of a Board of Commissioners approved policy.

Article IV: Recruitment, Selection and Appointment

Section 403: A new section has been added to provide for a veteran's preference in hiring, promotion, reassignment, transfer, and reduction-in-force situation.

Section 404: The background-check section has been completely rewritten to comply with the process that has been used since the ban-the-box policy was adopted. The discretionary use of fingerprinting was eliminated because fingerprinting has not been used outside the sheriff's office and this section does not apply to the sheriff's office.

Section 405: This section has been completely rewritten to authorize new appointments for DSS and Health Department employees that comply with the provisions of the state's personnel system that apply to these employees. Language has also been added to extend the probationary period to one year and to clarify that probationary employees can be dismissed at any time during the probationary period upon the department head's making a determination that the probationary employee is either not meeting performance or conduct standards or will not be able to do so before the end of the probationary period. This section also establishes that an employee transferring to different position retains his or her regular status and does not serve a new probationary period, except as is required for employees covered by the State Human Resources Act.

Article V: Conditions of Employment

Section 501: The Code of Ethics in the existing ordinance has been moved to be the first section in Conditions of Employment and there have been minor revisions to the language.

Section 502: This is a new section to simply formally establish the unlawful workplace harassment policy and to be consistent with the state personnel system's requirements that apply

to DSS and Health Department employees.

Section 509: This is a new section that gives employees and job applicants who are not subject to the State Human Resources Act the right to place a written objection to material in their personnel file that they believe to be inaccurate or misleading and a process for seeking to have such material corrected. A separate statute governing this process applies to those employees who are subject to the State Human Resources Act. It has frequently been issue in the past for employees who wished to do this but were not expressly permitted to do so by the existing ordinance.

Article VI: Employee Benefits

Section 606: Only change is that part-time employees working less than 40 hours per week shall be paid for their annual leave balance up to a maximum of 120 hours upon separation.

Section 607: Sick leave benefits are now considered to be a continuation of wages and subject to leave accruals.

Section 608: Family and medical leave will require that any paid leave available to an employee must be used by the employee concurrently with the twelve (12) weeks of unpaid leave that must be provided by the employer under the *Family and Medical Leave Act*. Employees have the right to elect to do this under the Act and employers have the right to require employees to do this under the Act. This has been the practice of the county without the election having been made by the board of commissioners.

Section 609: Employees receiving workers' compensation benefits will now be limited to only those benefits provided by the state law. In the past, workers receiving workers' compensation were allowed to supplement the workers' compensation with accumulated annual or sick leave.

Section 612: The language in the section for school participation leave has been conformed to the statutory language.

Section 613: Leave to obtain or seek to obtain relief under certain domestic law processes has been added to conform to state law.

Section 614: Paid leave is allowed for going to the employee wellness clinic to encourage use of the clinic.

Section 617: Administrative leave with pay will is limited to no more than 30 days without prior approval of the county manager. The existing ordinance does not contain a cap.

Article VII: Employee Discipline

The only significant changes in the employee discipline provisions are in Section 703, Dismissal of permanent employees. The proposed ordinance follows the state personnel

provisions that apply to DSS and Health Department employees for the first eleven grounds of dismissal. The grounds for dismissal listed as numbers 12 – 16 are continued from the existing ordinance.

Article VIII: Grievances

The only significant change in the proposed ordinance grievance provisions is the addition of the statement that the county manager shall establish the rules governing how appeals are to be conducted.

Article IX: Claims against County Officers and Employees

The changes in the proposed ordinance are to create a single process for processing claims made against the sheriff's office employees and other county employees. The existing ordinance identifies a claims adjustment committee which has not functioned and that committee has been eliminated from the proposed ordinance.

RECOMMENDATION:

Consider the proposed ordinance and direct any changes the board desires to be made to it. The county attorney advises that the proposed ordinance complies with applicable employment laws and gives management greater flexibility to address changes in the labor market and future amendments to state and federal employment laws through policy directives.

CUMBERLAND COUNTY PERSONNEL ORDINANCE

ARTICLE I. IN GENERAL

- Sec. 10-101. Purpose.
- Sec. 10-102. Equal employment opportunity and affirmative action.
- Sec. 10-103. Applicability.
- Sec. 10-104. Delegation of duties.
- Sec. 10-105. Responsibility of employees.

ARTICLE II. POSITION CLASSIFICATION PLAN

- Sec. 10-201. Coverage of the classification plan.
- Sec. 10-202. Administration of the classification plan.
- Sec. 10-203. New positions.
- Sec. 10-204. Approval of the classification plan.

ARTICLE III. SALARY PLAN

- Sec. 10-301. Application of this article.
- Sec. 10-302. Coverage of the salary plan.
- Sec. 10-303. Transition to a new salary plan.
- Sec. 10-304. Employee compensation.
- Sec. 10-305. Longevity, law enforcement career development and step plans.
- Sec. 10-306. Promotions.
- Sec. 10-307. Effective date of salary adjustments.

ARTICLE IV. RECRUITMENT, SELECTION AND APPOINTMENT

- Sec. 10-401. Recruitment.
- Sec. 10-402. Qualification standards.
- Sec. 10-403. Veteran's preference.
- Sec. 10-404. Pre-employment background checks.
- Sec. 10-405. Types of appointment.
- Sec. 10-406. Final selection and appointment.
- Sec. 10-407. Agreements for employment.

ARTICLE V. CONDITIONS OF EMPLOYMENT

- Sec. 10-501. Code of ethics.
- Sec. 10-502. Unlawful workplace harassment and retaliation.
- Sec. 10-503. Work week, work schedules.
- Sec. 10-504. Overtime.
- Sec. 10-505. Accountability for work time.
- Sec. 10-506. Travel time.

- Sec. 10-507. Reduction in force.
- Sec. 10-508. Performance evaluations.
- Sec. 10-509. Objection to material in personnel file for employees not subject to the State Human Resources Act.

ARTICLE VI. EMPLOYEE BENEFITS

- Sec. 10-601. Insurance programs.
- Sec. 10-602. Local governmental employees' retirement system.
- Sec. 10-603. Social security.
- Sec. 10-604. Law enforcement officers' benefit and retirement fund.
- Sec. 10-605. Holidays.
- Sec. 10-606. Annual leave.
- Sec. 10-607. Sick leave.
- Sec. 10-608. Family and medical leave.
- Sec. 10-609. Worker's compensation.
- Sec. 10-610. Military leave.
- Sec. 10-611. Civil leave.
- Sec. 10-612. School participation leave.
- Sec. 10-613. Leave to obtain relief under Chapters 50B or 50C
- Sec. 10-614. Wellness clinic leave.
- Sec. 10-615. Leave without pay.
- Sec. 10-616. Voluntary shared leave.
- Sec. 10-617. Administrative leave with pay.

ARTICLE VII. EMPLOYEE DISCIPLINE

- Sec. 10-701. Progressive discipline.
- Sec. 10-702. Dismissal of temporary or probationary employees.
- Sec. 10-703. Dismissal of regular employees.
- Sec. 10-704. Dismissal authority.
- Sec. 10-705. Suspension.
- Sec. 10-706. Demotion.

ARTICLE VIII. GRIEVANCES

- Sec. 10-801. Filing a grievance.
- Sec. 10-802. Grievances based on sexual harassment.

ARTICLE IX. CLAIMS AGAINST COUNTY EMPLOYEES AND OFFICERS

- Sec. 10-901. Definitions.
- Sec. 10-902. Policy of county.
- Sec. 10-903. Litigation assistance.
- Sec. 10-904. Vicarious liability assistance account.
- Sec. 10-905. Limitations of coverage.
- Sec. 10-906. Procedure for settlement of administrative claims.

CUMBERLAND COUNTY PERSONNEL ORDINANCE

ARTICLE I. IN GENERAL

Sec. 10-101. Purpose. (New)

The board of commissioners, as sole legislative authority for the county, hereby adopts this ordinance, to be cited as the *Cumberland County Personnel Ordinance*, to establish the conditions governing employment for all county employees, officers and officials except as specifically exempted herein.

Sec. 10-102. Equal employment opportunity (Old Sec. 10-3 revised) and affirmative action. (new)

(a) All applicants and employees of the county shall be given equal opportunity for employment without regard to race, color, religion, sex, national origin, age, handicap, political affiliation or genetic information except where specific physical requirements constitute bona fide occupational qualifications necessary to proper and efficient administration. Discrimination against any person in recruitment, examination, appointment, training, promotion, retention, discipline, salary increases, or any other term or condition of employment because of race, color, religion, sex, national origin, age, handicap, political affiliation or genetic information is prohibited.

(b) The county manager shall develop and implement personnel policies and practices that will guarantee equal opportunity for employees and applicants for employment.

State law references-Equal employment opportunity, G.S. § 126-16;

Sec. 10-103. Applicability. (Old Sec. 10-1 revised)

The provisions of this ordinance and all rules and regulations adopted pursuant to it shall apply to county employees, officers and officials as follows:

(1) Elected officials shall be exempt from the provisions of this ordinance except for section 10-501, Code of Ethics.

(2) Appointed officials, not serving as county employees, shall be exempt from the provisions of this ordinance except for section 10-501, Code of Ethics.

(3) The county manager, county attorney, and clerk to the board of commissioners shall be subject to the provisions of this ordinance except for Article IV, Recruitment, Selection and Appointment; Article VII, Employee Discipline; and Article VIII, Grievances; provided, however; that in the event the provisions of any contracts of employment with any of these employees are in conflict with any provisions of this ordinance, the contract provisions shall supersede the ordinance provisions.

(4) Employees of the offices of the sheriff and register of deeds shall be subject to the provisions of this ordinance except for Article IV, Recruitment, Selection and Appointment; Article VII, Employee Discipline; and Article VIII, Grievances.

(5) The director of elections and all other employees of the county board of elections shall be subject to the provisions of this ordinance except for Article IV, Recruitment, Selection and Appointment; Article VII, Employee Discipline; and Article VIII, Grievances; provided, however; that the county board of elections may agree to subject its employees to these articles by giving written notice to the county manager.

(6) All county employees subject to the *North Carolina Human Resources Act* shall be exempt from Article VII, Employee Discipline and Article VIII, Grievances; provided, however; that these employees shall be subject to all employee discipline and grievance rules, policies and procedures applicable to these local government employees as established by the State Human Resources Commission pursuant to Chapter 126 of the North Carolina General Statutes and the administrative code regulations promulgated pursuant to it.

(7) Employees of the North Carolina Cooperative Extension Service shall be subject to all provisions of this ordinance which are not inconsistent with the provisions of any contract between the county and The North Carolina Cooperative Extension Service North Carolina State University and The North Carolina Cooperative Extension Program North Carolina A&T University for the operation of a Cooperative Extension Agency in the county (the "MOU"). To the extent any provisions of the MOU conflict with any provisions of this ordinance, the contract provisions shall supersede the ordinance provisions.

Sec. 10-104. Delegation of duties. (old Secs. 10-7 and 10-8 revised)

(a) The county manager shall:

(1) Appoint and suspend or remove all county officers, employees and agents except those who are elected by the people or whose appointment is otherwise provided for by law; and

(2) Establish policies and procedures necessary or useful for the effective administration and implementation of this ordinance and the county's personnel system in accordance with any directives by the board of commissioners; and

(3) Have the authority to delegate any responsibilities assigned to him or her in this ordinance to any subordinate at his or her discretion.

(b) The human resources director shall:

(1) Advise the county manager, department heads, supervisors, and employees on personnel policies and procedures;

(2) Maintain all employee personnel records in the custody of the human resources department in accordance with G.S. § 153A-98;

(3) Maintain the most current version of this ordinance as amended from time to time;

(4) Maintain the most current version of the personnel policies and procedures established by the county manager from time to time; and

(5) Maintain and administer the position, classification and compensation plans as directed by the county manager.

(c) Department heads shall:

(1) Report to the human resources director any provisions contained in the personnel policies and procedures which they believe are inconsistent with the efficient operation of their departments or the maintenance of employee morale and make appropriate recommendations to address the matters reported;

(2) Report all personnel actions within their departments to the human resources director prior to implementation of any proposed personnel action;

(3) Report all anticipated vacancies to the human resources director; and

(4) Maintain all employee personnel records in the custody of their departments in accordance with G.S. § 153A-98;

Sec. 10-105. Responsibility of employees. (old Sec. 10.4 revised)

Employees shall be responsible for complying with the provisions of this ordinance insofar as they apply to personal conduct and performance of service.

ARTICLE II. POSITION CLASSIFICATION PLAN

Sec. 10-201. Coverage of the classification plan. (old Sec. 10-26 revised)

(a) The county shall maintain a position classification plan that ensures the accuracy of position duties and responsibilities and consolidates similar job functions into defined classifications. The county manager shall determine the duties of each position and shall promulgate procedures to establish, revise and maintain the classification plan to ensure it reflects the duties performed by each employee in the classification system.

(b) Subject to annual budget constraints, comprehensive salary surveys or studies shall be conducted to gather data on rates of pay for comparable work to determine the level of compensation assigned to positions.

Sec. 10-202. Administration of the classification plan. (old Sec. 10-28 revised)

The county manager shall administer and maintain the position classification plan and shall have authority to establish new classifications and reallocate existing positions to the appropriate classifications within the classification plan for all county positions.

Sec. 10-203. New positions. (old Sec. 10-30 revised)

New positions may only be established by the board of commissioners upon the recommendations of the county manager.

Sec. 10-204. Approval of the classification plan. (old Sec. 10-27 revised)

The board of commissioners shall review and approve the classification plan annually.

ARTICLE III. SALARY PLAN

Sec. 10-301. Application of this Article. (new)

The board of commissioners shall fix or approve pay schedules, expense allowances and other compensation of county employees through the approval of the salary plan, the annual budget and any policies established by the county manager for these purposes.

Sec. 10-302. Coverage of the salary plan. (old Sec. 10-46 –10-47 revised)

(a) The board of commissioners shall establish a salary plan upon the recommendation of the county manager and shall review and approve the salary plan annually.

(b) The salary plan shall include salary ranges with a minimum and maximum rate of pay commensurate with the responsibilities and difficulty of the work, and take into account the prevailing compensation for comparable positions in other agencies of government and other relevant factors.

(c) Subject to annual budget constraints, the salary plan shall provide for the salary advancement of employees based upon changes in job responsibilities and prevailing labor market conditions.

(d) Subject to annual budget constraints, the salary plan may include special compensation programs which enhance the county's competitive position for the purpose of talent acquisition, retention, and productivity. The county manager shall the establish policies and procedures necessary or useful to implement any special compensation programs.

(e) The county manager shall be responsible for the administration and maintenance of the salary plan and shall establish policies and procedures necessary or useful to this purpose to include any special compensation programs.

Sec. 10-303. Transition to a new salary plan. (old Sec. 10-62 revised)

No employee shall receive a salary reduction as a result of the transition to a new salary plan and any employees receiving salary at a rate less than the minimum rate established for their new respective grades shall have their salaries raised to the minimum rate of their new grades.

Sec. 10-304. Employee compensation. (old Sec. 10-48 revised) (subsection 6 is new to the ordinance and is taken from a policy submitted to the Personnel Committee July 8, 1988, and approved by the Board of Commissioners)

Each new employee shall be appointed at the minimum salary which has been established for the classification in which he or she is employed except:

- (1) If the position is not subject to the *North Carolina Human Resources Act*, the employee does not meet the minimum requirements of the position, and qualified applicants

for the position are not available, the county manager shall designate the employee as a trainee to be appointed at a salary no more than ten percent below the minimum salary established for the position;

(2) If the position is subject to the *North Carolina Human Resources Act*, the employee does not meet the minimum requirements of the position, and qualified applicants for the position are not available, the county manager shall designate the employee to the appointment status mandated by 25 NCAC 01I.2002 at a salary no more than ten percent below the minimum established for the position;

(3) If the county manager shall determine that there has been a demonstrated inability to recruit at the minimum salary, or if an applicant possesses exceptional qualifications or prior experience, the county manager may authorize the employment of the applicant at a salary level up to and including the maximum of the salary range provided for that position classification, subject to the availability of appropriated salary and benefit funds;

(4) If the county manager shall identify critical staffing levels of a particular work unit within a department, or when unusual or peak work demands cannot be met, the county manager may authorize the emergency assignment of employees normally assigned to another work unit in that department to temporarily staff the critically-staffed work unit. These employees must be permanently assigned to the same or similar job classification as the position for which they will be temporarily performing duties. The county manager shall determine the rate of supplemental pay, if any, for work performed during the emergency assignment, based upon the critical nature of the work to be performed and the limited resources available to perform the work;

(5) If the county manager shall identify a developing trend indicating unusual or persistent difficulty in turnover and/or retention of sufficient staffing in a particular job classification or work unit, or a specific concern regarding the retention of a critical position, the county manager may authorize a salary increase up to and including the maximum of the salary range provided for the affected position(s) subject to the availability of appropriated salary and benefit funds. Or, the county manager may authorize a separate supplemental payment to employees in the applicable positions. When determining appropriate salary or supplemental payment amounts, the county manager shall take into consideration relevant factors including salaries paid in comparable and competitive job markets, and the potential liability impact for failure to meet state staffing mandates;

(6) The County Manager is authorized to approve equity pay adjustments for employees whose salaries are inappropriately low due to unique or special circumstances pursuant to the following conditions:

(a) The County Manager may not approve equity pay adjustments for more than one percent of the county workforce in any fiscal year;

- (b) The Department Head must submit a written request to the County Manager for an equity pay adjustment for a departmental employee stating the recommended amount and justification;
- (c) Employees must have been employed by the county for a minimum of three years and be in good standing to be eligible to be considered for an equity pay adjustment;
- (d) All equity pay adjustments must be within the salary range of the employee's position classification as specified by the adopted County Position Classification and Pay Plan;
- (e) No equity pay adjustment can exceed ten percent of the employee's current salary.

Sec. 10-305. Longevity, law enforcement career development and step plans. (old Sec. 10-48 revised)

- (a) To the extent that longevity pay or law enforcement officers' career development pay are funded in each year's fiscal budget, only those employees who commenced county service before July 1, 2012, shall be eligible to receive it.
- (b) To the extent that a law enforcement officers' step plan is funded in each fiscal year's budget, all law enforcement officers, who are otherwise eligible, shall be eligible to receive it regardless of the year they commenced county service.
- (c) Any longevity pay, law enforcement officers' career development pay, or law enforcement officers' step plan pay shall be a special compensation program.

Sec. 10-306 Promotions. (old Sec. 10-84 revised)

An employee may receive a promotion in one of two forms. The classification of the employee may be designated to a higher level salary range, or, if qualified, the employee may be assigned to a position in a classification with a higher salary range. Any such designation or reassignment must be approved by the county manager.

Sec. 10-307. Effective date of salary adjustments. (old Sec. 10-61)

Salary adjustments approved after the first working day of a pay period shall become effective at the beginning of the next pay period.

ARTICLE IV. RECRUITMENT, SELECTION AND APPOINTMENT

Sec. 10-401. Recruitment. (old Sec. 10-76 revised)

Recruitment shall be the dual responsibility of the department head and the human resources department. The human resources director shall coordinate recruitment efforts and maintain a comprehensive record of recruitment activities throughout the county government and shall provide assistance to departments as best meets the needs of the departments.

Sec. 10-402. Qualification standards. (old Sec. 10-77)

Employees shall meet the employment standards established by the position classification plan and such other reasonable minimum standards as to character, aptitude, ability to meet the public and physical condition as may be established by the department head concerned, the county manager and/or the board of county commissioners.

Sec. 10-403. Veteran's preference. (New)

Preference in employment for positions within the county subject to this ordinance shall be given to those who served in the Armed Forces of the United States on active duty (for reasons other than training) during periods of war or any other campaign, expedition, or engagement for which a campaign badge or medal is authorized by the United States Department of Defense.

The preference to be accorded shall apply in initial employment, subsequent employment, promotions, reassignments, horizontal transfers and reductions-in-force situations.

The county manager shall develop and implement policies that administer the preference granted herein.

Sec. 10-404. Pre-employment background checks. (old Sec. 10-14 revised)

A background investigation of any final candidate for a county position shall be conducted prior to the employment of the individual. The background investigation shall include, at a minimum, a criminal record check and a drug screening. In addition, a credit check, sex offender registry check and/or driving record history may be required, depending on the position.

Sec. 10-405. Types of appointment. (old Se. 10-78 revised)

(a) *Probationary.* The probationary period is an essential extension of the selection process and provides the time for effective adjustment of the new employee or the dismissal of the new employee whose performance does not meet acceptable performance or conduct standards. The initial appointment of an employee to a regular position shall be a probationary appointment as follows:

- (1) If the position is not subject to the *North Carolina Human Resources Act*, the duration of a probationary appointment shall be one year.

(2) If the position is subject to the *North Carolina Human Resources Act*, the duration of the probationary period shall be for the period established for an employee to attain career status in accordance with G.S. § 126-1.1.

(3) A probationary employee may be demoted or dismissed any time the department head determines that the employee does not and will not be able to satisfactorily perform the job duties or engages in conduct that is unacceptable. Notice of the demotion or dismissal must be given in accordance with section 702.

(4) At the end of the probationary period, if service is unsatisfactory the employee shall be dismissed or demoted. If service is satisfactory, the employee shall be retained as a regular employee.

(5) For positions subject to the *North Carolina Human Resources Act*, career status employees transferring to a position in another agency shall commence the new position in a probationary status in accordance with 25 NCAC 01I.2002. Career status employees transferring to a new position within the same agency shall retain their career status.

(6) For positions not subject to the *North Carolina Human Resources Act*, regular employees transferring to a position in within the same department or another department or agency shall retain their regular status.

(b) *Regular.* Regular appointment is an appointment to a permanent position following the satisfactory completion of a probationary and/or trainee appointment or the reinstatement of an eligible employee. For those employees subject to the *North Carolina Human Resources Act*, the appointment shall become regular when the employee attains career status in accordance with 25 NCAC 01I.2002.

(c) *Trainee.* For those positions not subject to the *North Carolina Human Resources Act*, a trainee appointment may be made to a permanent position when the county is unable to recruit an experienced or otherwise qualified employee. An employee may not remain on a trainee appointment beyond the time when education and experience requirements for the position have been completed. After the employee has successfully completed all education and experience requirements, he or she shall be given regular status.

(d) *Temporary.* For those positions not subject to the *North Carolina Human Resources Act*, a temporary appointment may be made to a regular or temporary position for a specific duration of time which will not exceed ninety days, except where a temporary appointment is necessary due to an on-the-job injury. All temporary appointments must be approved in advance by the county manager. Temporary employees shall not be entitled to receive any of the employee benefits available to regular employees unless mandated by state or federal law.

(e) For those positions subject to the *North Carolina Human Resources Act*, such additional forms of appointment as are appropriate for the position being filled shall be made in accordance with 25 NCAC 01I.2002 and shall comply with all program requirements applicable to the position.

(f) Appointments to positions requiring a normal work week of at least 40 hours shall be full-time appointments and those which require a normal work week less than 40 hours shall be part-time appointments.

Sec. 10-406. Final selection and appointment. (old Sec. 10-82 revised)

(a) Final selection of a department head rests with the appointing authority for the position.

(b) Final selection of an applicant for all positions rests with the department head concerned. This selection shall be made from those applicants that have been certified by the human resources director as being best qualified and suited for the position in question. After selection of an applicant for a position by a department head, the human resources director shall recommend the position classification and starting salary to the county manager for approval. All such actions will be subject to final review and approval by the county manager, who may delegate such review and approval authority to the human resources director.

Sec. 10-407. Agreements for employment. (old Sec. 10-83 revised),

No agreement for employment with the county shall be valid unless in writing and approved by the board of commissioners. Further, no agreement for employment shall be valid unless funds for compensation for such services shall have been appropriated by the board of commissioners.

ARTICLE V. CONDITIONS OF EMPLOYMENT

Sec. 10-501. Code of ethics. (old Article IX revised)

(a) *Declaration of policy.* It is the policy of the county that the proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that governmental decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public has confidence in the integrity of its government. In recognition of these goals, a code of ethics for all county employees is adopted.

(b) This code has four purposes as follows:

- (1) To encourage high ethical standards in official conduct by county employees;
- (2) To establish guidelines for ethical standards of conduct for all county employees by setting forth those acts or actions that are incompatible with the best interests of the county;
- (3) To require that county employees disclose private financial or other interests in matters affecting the county; and
- (4) To serve as a basis for disciplining and/or punishing those employees who refuse to abide by its terms.

(c) *Definitions.* As used in this code of ethics, the following terms shall have the following meanings unless the context clearly indicates that a different meaning is intended:

- (1) *Business* shall mean a corporation, partnership, sole proprietorship, firm, organization or other legal entity carrying on business;
- (2) *Confidential information* shall mean information which is not available to the general public and which is obtained only by reason of an employee's position.
- (3) *County* shall mean the County of Cumberland.
- (4) *Employee* shall mean all officials, officers, members and employees, whether elected or appointed and whether paid or unpaid, of the government of the county and of all of its agencies. Employees shall include former employee if the violation occurred during county employment.
- (5) *Financial interest* shall mean any interest which shall yield, directly or indirectly, any monetary or other material benefit to a county employee. The term, financial interest, shall not include the employee's salary or other compensation received pursuant to county employment. The fact that an employee owned ten percent or less of the stock of a corporation or has a ten percent or less ownership in any business entity or is an employee of said business entity does not create a financial interest.

(6) *Official act* shall mean an official decision, vote, approval, disapproval or other action which involves the use of decision-making authority.

(7) *Personal interest* shall mean any interest arising from blood or marriage relationships or from employment or business whether or not any financial interest is involved. A blood or marriage relationship for the purpose of this section shall mean wife, husband, mother, father, brother, sister, daughter, son, grandmother and grandfather, grandson and granddaughter, aunts and uncles. Included are the step, half, in-law, in loco parentis relationships and persons living within the same household.

(8) *Political activity* shall mean any act aimed at supporting or opposing the election of any candidate for public office or supporting or opposing a particular political party.

(d) *Standards of Conduct.* Employees must in all instances maintain their conduct at the highest standards. Official conduct guided by high ethical standards gives the public confidence in the integrity of its government and assures the public that government is responsible to the people. The following standards of conduct are goals which public employees should strive to attain so as to avoid even the appearance of impropriety in the conduct of the public's business:

(1) Employees have an obligation to act morally and honestly in discharging their responsibilities;

(2) Employees shall conduct themselves with propriety, discharge their duties impartially and fairly and make continuing efforts toward attaining and maintaining high standards of conduct;

(3) Employees shall not improperly use, directly or indirectly, their county positions to secure any financial interest or personal benefit for themselves or others;

(4) Employees shall not use nor attempt to use their positions to improperly influence other employees in the performance of their official duties; and

(5) While in the conduct of their official duties employees shall not request other employees to grant or make available to any person any consideration, treatment, advantage or favor beyond that which it is the general practice to grant or to make available to the public at large.

(e) *Use of County Resources.*

(1) No employee shall use or permit the use of county employees or county-owned material, property, funds, or other resources of any kind for the private gain, personal benefit, or political advantage of any person, except where such use is made available to the public at large. Nothing herein shall be interpreted or construed to limit the use of county-owned facilities for public gatherings in accordance with established facilities use policies.

(2) County-owned vehicles shall not be used for the personal business of any employee. No county automobile shall be used by a county employee going to or from home, except when such use is for the benefit of the county and such use has been authorized by the department head, county manager or sheriff.

(f) *Conflict of Interest.*

- (1) No employee shall engage in any employment or business which conflicts with the proper discharge of his or her official duties.
- (2) No employee shall have a financial interest, directly or indirectly, in any transaction with any county agency as to which the employee has the power to take or influence official action. No employee shall take or influence official action in any transaction with any county agency that would confer a benefit based on a personal interest where such benefit is not made available to the public at large.
- (3) If an employee has any direct or indirect financial interest in the outcome of any matter coming before the agency or department of which he or she is a member or by which he or she is employed, such employee shall disclose on the record of the agency or department and to his superior or other appropriate authority the existence of such financial interest. An employee having such an interest shall not engage in deliberations concerning the matter, shall disqualify himself from acting on the matter and shall not communicate about such matter with any person who will participate in the action to be taken on such matter. However, the excusal from voting by members of the board of county commissioners shall be governed exclusively by G.S. § 153A-44.
- (4) No employee shall represent or appear on behalf of any individual or entity, either personally or through an associate or partner, against the interests of the county or any of its agencies in any action or proceeding in which the county or any of its agencies is a party, unless the action or proceeding is sufficiently remote from his official duties, so that no actual conflict of interest exists.
- (5) Nothing herein shall be interpreted or construed to prohibit any employee from exercising his or her legal rights as to his or her own personal interests in processing a claim against, making a request to the county or any of its agencies or in defending a claim made against him or her by the county or any of its agencies, or to prohibit an employee from testifying as a witness in any administrative or judicial proceeding.

(g) *Confidential Information.*

- (1) No employee shall, without legal authority, disclose confidential information gained as a result of his or her employment or position with the county.
- (2) No employee shall use confidential information gained as a result of his or her employment or position with the county to advance his or her own financial or personal interest or the financial or personal interests of any other person.
- (3) Nothing in this subsection shall be construed as prohibiting the disclosure of information required by law to be disclosed.

(h) *Gifts, Gratuities, and Favors.* No employee shall knowingly solicit or accept a gift, whether in the form of money, things, favor, loan or promise, or gratuity, from any person or entity which, to the employee's knowledge, is interested directly or indirectly, in any manner whatsoever, in a transaction with the county or any of its departments or agencies as to which the employee has the power to take or influence official action. This section is not intended to prevent the gift and/or receipt of the following:

- (1) Honorariums in an amount not to exceed \$25.00 or expenses to include meals, travel and lodging for participating in meetings, seminars, conferences, grand openings, or anniversary celebrations of businesses, or other similar activities where the official or employee is either a speaker, participant or invited in his or her official capacity;
- (2) Nominal advertising items or souvenirs of \$25.00 or less in value, or meals furnished at banquets;
- (3) Customary gifts or favors received by any employee from friends, relatives or other employees where it is clear that it is the relationship of the donor which is the motivating factor for the gift or favor;
- (5) Gifts, favors, discounts, and gratuities offered by commercial enterprises to members of the general public; and
- (6) Political contributions by elected county officials.

(i) *False Statements Prohibited.*

- (1) No employee shall willfully make any false statement, or in any manner commit any fraud, conceal any wrongdoing or fail to answer fully and truthfully questions about wrongdoing connected with the business of the county or connected with the work-related conduct of any county employee.
- (2) No employee shall willfully make any false statement, certificate, mark, report or rating with the intent to obtain public funds or other public benefit for himself or herself or anyone else to which the employee or such other person is not by law entitled or otherwise authorized.
- (3) No person seeking appointment to, or promotion in, the service of the county, shall either directly or indirectly give, render or pay any money, service or other valuable thing to any person for, on account of or in connection with his or her test, appointment, proposed appointment, promotion or proposed promotion; provided, however, that this provision shall not apply to payments made to duly licensed employment agencies or educational institution.

(j) *Nepotism Prohibited.* No relative of a of a county employee, by blood or marriage, may be employed in any position with the county in which the employee may be able to supervise directly or control or influence the work or employment status of the relative or the affairs of the organizational unit in which the relative is employed. Relative for the purposes of this section shall mean wife, husband, mother, father, brother, sister, daughter, son, grandmother and grandfather, grandson and granddaughter, aunts and uncles. Included are the step, half, in-law, in loco parentis relationships and persons living within the same household.

(k) *Outside Employment.* Except for county elected officials or appointees, no employee shall engage in outside employment without prior approval of the employee's department head. Approval will be granted except where the employment has a probability of creating a conflict with the performance of the county's business or creating a division of loyalty, or where the performance of the outside duties would most likely impair the employee's ability to perform his or her county duties.

(l) *Political Activity.*

(1) *Generally.* Every employee of the county has a civic responsibility to support good government by every available means and in every appropriate manner except where in conflict with the law. County employees may join or affiliate with civic organizations of a political nature, may attend political meetings, may serve as officers of civic or political organizations, and may advocate and support principles or policies of civic or political organizations in accordance with the Constitution and laws of the United States and North Carolina.

(2) *Prohibitions.* No employee of the county shall:

- (a) Engage in any political activity while on duty, unless serving as an elected county official;
- (b) Place any pressure, direct or indirect, on any employee to support any candidate or party, contribute to, solicit for, or act as custodian of funds for political purposes;
- (c) Offer any county position, promotion, job related benefit, remuneration or other advantage to any person as a reward for political activity or support;
- (d) Take adverse action against any employee based on that employee's engaging in or refusing to engage in permitted political activity; or
- (e) Permit or require any county employee to engage in political activity while the employee is on duty.

(3) *Candidates running for public office; etc.* Engaging in political activity while on duty shall not include the casual greeting or encounter by employees with persons running for public office. Candidates for public office visiting public offices shall be received and treated with respect. For the purpose of this section, employees who are on authorized breaks or on lunch periods shall not be deemed to be on county time.

(m) *Violations.* Any violation of this section shall be deemed improper conduct and may subject an employee to disciplinary action, dismissal, or removal, as appropriate. Additionally, a violation of subsection (e), use of county resources, or subsection (i), false statements prohibited, is declared a misdemeanor and may be punished as provided by law. The board of county commissioners, upon notice and hearing, may declare void and rescind any contract, grant, subsidy, license, right, permit, franchise, use, authority, privilege, benefit certificate, ruling, decision, performance of any service, or

transfer or delivery of anything which the board determines was awarded, granted, paid, furnished, or otherwise performed in violation of this article.

Sec. 10-502. Unlawful workplace harassment and retaliation. (new)

The county manager shall develop strategies, policies and practices to ensure that all employees are guaranteed the right to work in an environment free from unlawful workplace harassment, sexual harassment or retaliation based on opposition to unlawful workplace harassment.

Sec. 10-503. Work week, work schedules. (replaces old Sec. 10-103)

- (a) The established work week for the county for pay purposes is a seven-day period beginning Sunday at 12:00 a.m. and ending Saturday at 11:59 p.m.
- (b) County offices shall be open for business on weekdays from 8:00 a.m. until 5:00 p.m.; provided, however; that department heads, with the approval of the county manager, shall schedule those hours necessary to conduct the operations of their departments and may vary work schedules and business hours to best meet the needs of the department's customers and the operations of the department.
- (c) Full time employees shall normally work forty (40) hours per week.
- (d) Department heads shall work the hours necessary to assure the satisfactory performance of their departments but not less than forty (40) hours per week.

Sec. 10-504. Overtime. (replaces old 10-105)

Department heads shall arrange the work schedules of their employees so as to accomplish the required work within the normal workweek schedule. The county manager shall establish policies and procedures to administer any overtime and/or compensatory time that may become necessary due to unforeseen circumstances. All overtime and compensatory time shall be administered in compliance with the *Fair Labor Standards Act*.

Sec. 10-505. Accountability for work time. (replaces old Sec. 10-105(f) and (g))

All employees shall accurately reflect the hours worked by the employee in a form prescribed by the county manager for this purpose.

Sec. 10-506. Travel time. (new, old Sec. 10-106 had been repealed)

- (a) County employees shall be credited with hours of work for all time spent in official travel, to include time spent travelling during non-duty hours. Official travel is travel performed at the direction or approval of the department head. An employee is deemed to be in an official status from the time of his or her departure from a designated location in the county and until arrival at his or her destination. Time spent travelling from the destination until returned to the county shall also be deemed official travel.
- (b) The county manager shall establish policies and procedures to implement and administer travel time credit, taking into account standards to require the least-cost means of travel and applicable regulations of the United States Department of the Treasury.

Sec. 10-507. Reduction in force. (replaces old Sec. 10-119)

- (a) In the event that a reduction in force ("RIF") becomes necessary, employees will be notified a minimum of 30 days prior to their dismissal date due to the RIF. Consideration will be given to the needs of the county, seniority, and relative job performance in determining those employees to be retained.
- (b) Any regular employee who is otherwise in good standing at the time of his or her dismissal due to a RIF shall be referred for interview and evaluation for any vacancy for which his or her training and experience qualify him or her for a period of one year from the date of the official RIF notification, or until he or she should decline an interview for or an offer of a position at the same or higher classification held at the time of the RIF, whichever should first occur.
- (c) The county manager shall establish further policies and procedures to implement this section.

Sec. 10-508. Performance evaluations. (replaces old Sec. 10-120)

The County Manager shall establish policies and procedures to implement a performance management system that will include planning, managing, and appraising employee performance based on a 12-month work cycle.

Sec. 10-509. Objection to material in personnel file for employees not subject to the State Human Resources Act. (new)

- (a) This section shall only apply to employees and former employees whose positions were not subject to the State Human Resources Act and applicants for positions which were not subject to the State Human Resources Act.
- (b) An employee, former employee, or applicant for employment who objects to material in the employee's file may place in his or her file a written statement relating to the material the employee considers to be inaccurate or misleading.
- (c) An employee who objects to material in the employee's file because he or she considers it inaccurate or misleading may seek to amend or attach a rebuttal of such in accordance with the grievance procedure of Article VIII. A former employee or applicant may seek to amend or attach a rebuttal of material he or she considers inaccurate or misleading by written request to the county manager. If the department head, county manager, or board of commissioners determines that material in the employee's file is inaccurate or misleading, the human resources director is authorized to amend or attach a rebuttal to the inaccurate material to ensure that the file is accurate. Nothing in this subsection shall be construed to permit an employee to appeal the contents of a performance appraisal or written disciplinary action.

ARTICLE VI. EMPLOYEE BENEFITS

Sec. 10-601. Insurance programs. (Old Sec. 10-136)

The county shall make group disability and group hospitalization insurance programs available for employee participation. Employees may enroll in the programs at their election and in accordance with the provisions of the social security program. Hospitalization coverage is available only to those permanent employees working 30 hours or more per week.

Sec. 10-602. Local governmental employees' retirement system. (Old Sec. 10-138)

Each employee other than law-enforcement officers who join the law-enforcement officers' benefit and retirement fund shall be required to join the local governmental employees' retirement system as a condition of employment.

Sec. 10-603. Social security. (Old Sec. 10-139)

Each county employee shall be covered by the old age, survivors and disability insurance program and may become eligible for disability or retirement benefits in accordance with the provisions of the social security program.

Sec. 10-604. Law enforcement officers' benefit and retirement fund. (Old Sec. 10-140)

Law enforcement officers primarily engaged in enforcing the criminal laws of the state are eligible for membership in the law enforcement officers' benefit and retirement fund.

Sec. 10-605. Holidays. (Old Sec. 10-104---revised)

(a) The County shall observe the same holidays as the State of North Carolina. All employees in a pay status the day before the holiday shall receive holiday pay.

(b) The County manager shall develop and implement holiday pay administration procedures consistent with applicable federal and state laws.

Sec. 10-606. Annual leave. (10-107---revised)

(a) It shall be the policy of Cumberland County to grant paid annual leave as a privilege for its employees.

(b) All employees subject to the Local Government Employees' and Law Enforcement Officers' Retirement Systems who are in pay status for ten or more workdays or 80 hours in a pay period earn annual leave at the following rate:

<i>Years of Completed Aggregate Service</i>	<i>Leave Days Earned Each Pay Period</i>	<i>Earned Annually</i>
Less than 2 years	.461	11.986
2 years	.576	14.976
5 years	.692	17.992
10 years	.807	20.982
15 years	.923	23.998
20 years	1.038	26.988

(d) Employees whose normal work week is less than or more than 40 hours per week shall earn leave proportionately.

(e) Employees shall be credited with annual leave accrued during time lost due to on-the-job injuries.

(f) Annual leave may be accumulated without any applicable maximum until June 30 of each calendar year. Annual leave accumulations over 240 hours for 40-hour employees and 257 hours for 171-hour employees shall be transferred to sick leave on July 1.

(g) Upon separation from service, employees scheduled to work 40 hours per week, shall be paid for their annual leave balance, up to a maximum 240 hours. Employees working a 171-hour monthly schedule shall be paid for their annual leave balance, up to a maximum of 257 hours. Upon separation from service, employees scheduled to work less than 40 hours per week, shall be paid for their annual leave balance, up to a maximum 120 hours.

(h) Annual leave shall be authorized in minimum increments of one-quarter hour periods.

Sec. 10-607. Sick leave. (Old Sec. 10-108---revised)

(a) *Sick leave credits.* All employees subject to the Local Government Employees' and Law Enforcement Officers' Retirement Systems who are in a pay status for ten or more workdays, 80 hours, in a pay period earn sick leave at the rate of .461 days per pay period or 11.986 days per year. Employees whose normal work week is less than or more than 40 hours per week shall earn sick leave proportionally.

(b) Employees shall be credited with sick leave accrued during time lost due to on-the-job injuries. Sick leave accrued during this period of disability shall be manually posted to the monthly leave log.

(c) Sick leave may be used for illness or injury which prevents an employee from performing usual duties and for the actual period of temporary disability and for:

- (1) Medical appointments; and
- (2) Illness of a member of the employee's immediate family. For purposes of this section, immediate family shall be as defined under the *Family and Medical Leave Act*.
- (d) Sick leave shall be authorized in minimum increments of one-quarter hour periods.
- (e) Sick leave is cumulative indefinitely.
- (f) The department head may require a statement from a health care provider or other acceptable proof that the employee was unable to work due to personal illness, family illness, or medical appointment.
- (g) Only scheduled workdays shall be charged in calculating the amount of leave taken. Holidays shall not be counted as sick leave.
- (h) No payment shall be made for accumulated sick leave credits at the time of the employee's separation.
- (i) Unused sick leave shall be accepted for employees hired, rehired or reinstated within three years of their last workday provided the employee earned sick leave while under the State Employees' and Teachers' Retirement System, Local Government Employees' Retirement System, or Law Enforcement Officers' Retirement System.

Sec. 10-608. Family and medical leave. (Old Sec. 10-221---rewritten)

- (a) Family and medical leave shall be provided in compliance with the *Family and Medical Leave Act of 1993*, as amended ("FMLA") and the rules and regulations of the U.S. Department of Labor concerning FMLA. The County manager shall develop and implement family and medical leave policies and procedures consistent with the FMLA.
- (b) The county shall elect to require that employees shall use paid leave concurrently with any approved FMLA leave.

Sec. 10-609. Worker's compensation. (Old Sec. 10-112)

- (a) An employee absent from duty because of sickness or disability covered by worker's compensation laws may receive only those benefits provided under the worker's compensation laws of the state.
- (b) During any period of sickness or disability, the employee shall receive all county benefits as if the employee were on the job.
- (c) Any employee injured while performing duties of the position that he or she holds must report this injury immediately to the department head. The department head shall immediately notify the human resources and risk management directors of the reported injury.

Sec. 10-610. Military leave. (Old Sec. 10-114)

Military leave shall be granted in accordance with the provisions of federal and state law. The county manager shall publish procedures implementing these provisions.

Sec. 10-611. Civil leave. (Old Sec.10-115)

An employee called for jury duty, or as a court witness for the federal or state governments or a subdivision thereof, shall be entitled to leave with pay for such duty in addition to keeping fees received for such duty.

Sec. 10-612. School participation leave. (Old Sec. 10-123 revised)

(a) An employee who is a parent, guardian, or person standing in loco parentis of a school-aged child shall be granted up to four hours of paid leave per fiscal year so the employee may attend or otherwise be involved at that child's school, subject to the following conditions:

(1) The leave shall be at a mutually agreed upon time between the department head and the employee.

(2) The department head may require an employee to provide the employer with a written request for the leave at least 48 hours before the time desired for the leave.

(3) The department head may require that the employee furnish written verification from the child's school that the employee attended or was otherwise involved at that school during the time of the leave in a form prescribed by the county manager

(b) For the purpose of this section, "school" means any (i) public school, (ii) private church school, church of religious charter, or nonpublic school described in Parts 1 and 2 of Article 39 of Chapter 115C of the General Statutes that regularly provides a course of grade school instruction, (iii) preschool, and (iv) child care facility as defined in G.S. 110-86(3). (1) The employee must provide the department head written verification from the child's school that the employee attended or was otherwise involved at that school or daycare during the time of the leave in the form prescribed by the county manager.

State Law Reference: G.S. § 95-28.3.

Sec. 10-613. Leave to obtain relief under Chapters 50B or 50C. (new)

No employee shall be discharged, demoted, denied a promotion, or disciplined because he or she took reasonable time off from work to obtain or attempt to obtain relief under Chapter 50B or Chapter 50C of the North Carolina General Statutes. Any employee who is absent from the workplace for this purpose shall comply with all usual time-off policies and procedures, including advance notice to the employee's supervisor, unless an emergency prevents the employee from doing so.

State Law Reference: G.S. § 95-270.

Sec. 10-614. Wellness clinic leave. (new)

Employees shall be granted leave for visits from the employee's worksite to the county employees' wellness care clinic.

Sec. 10-615. Leave without pay. (Old Sec.10-117)

A probationary or regular employee may be granted a leave without pay for up to six (6) months by the department head. This leave may be used for extended personal or family disability or other personal reasons. Leave without pay for purposes of covered service in the military or Public Health Service shall be granted in accordance with federal law.

Sec. 10-616. Voluntary shared leave. (new)

The county manager is authorized to establish rules and procedures whereby employees may donate annual leave to fellow employees who have exhausted all accumulated leave and are out of work for an FMLA-qualifying reason or for reasons of extreme hardship.

Sec. 10-617. Administrative leave with pay. (Old 10-118 revised)

The county manager and department heads are authorized to place an employee on administrative leave with pay when it is determined to be in the best interest of the county and only after prior consultation with the human resources director. Any proposal to extend administrative leave with pay more than thirty (30) days must be approved in advance by the county manager. Administrative leave with pay shall not be construed as an adverse personnel action and is not grievable.

ARTICLE VII. EMPLOYEE DISCIPLINE

Sec. 10-701. Progressive discipline. (Old Sec. 10-155---revised)

(a.) Discipline of employees shall be progressive and shall take into consideration the employee's years of county service and quality of job performance. Progressive discipline may take the form of written warnings, suspension without pay, demotion or dismissal.

(b) The county manager and/or department heads, as appropriate, shall publish in writing the general categories of conduct which warrant the various degrees of progressive discipline. These rules shall be applied uniformly throughout the county and/or applicable department.

(c) A copy of all department disciplinary rules shall be filed with the county human resources director. Department heads shall insure that current county and department disciplinary rules are communicated to all employees.

(d) Nothing contained herein shall limit the authority of the department head pursuant to section 10-703.

Sec. 10-702. Dismissal of temporary or probationary employees. (Old Sec. 10-156---revised)

(a) A temporary or probationary employee whose work or conduct is not satisfactory may be dismissed at any time by the department head. The department head must inform the employee of the reason for the dismissal in writing.

(b) A temporary or probationary employee shall not have the right to submit a grievance or appeal the employee's dismissal except where the employee claims that the dismissal was in violation of law.

Sec. 10-703. Dismissal of regular employees. (Old Sec. 10-157---revised)

(a) A regular employee whose work is not satisfactory shall be notified of the performance deficiency by the department head. The employee's deficiencies shall be explained in writing and the employee shall be advised of those actions the employee must take to bring the employee's work to an acceptable level. The employee shall sign and date such notice. After a reasonable time, the employee may be dismissed in accordance with section 10-704 if the employee continues to fail to perform at an acceptable level.

(b) The dismissal of a regular employee other than for performance deficiencies shall only be for good cause and after a pre-discipline conference as required by section 10-704. Grounds for dismissal include, but are not limited to, the following:

- (1) conduct for which no reasonable person should expect to receive prior warning; or
- (2) job related conduct which constitutes a violation of state or federal law; or

- (3) conviction of a felony or an offense involving moral turpitude that is detrimental to or impacts the employee's service to the county; or
- (4) the willful violation of any written departmental disciplinary policy issued or approved by a department head and filed with the county personnel director; or
- (5) the willful violation of any written county disciplinary policy issued or approved by the county manager and filed with the county personnel director; or
- (6) the willful violation of any written county or departmental safety rules or regulations; or
- (7) conduct unbecoming an employee that is detrimental to the county's service; or
- (8) the abuse of client(s), patient(s), or a person(s) over whom the employee has charge or to whom the employee has a responsibility, or of an animal owned by or in the custody of the county; or
- (9) falsification of an employment application or other employment documentation; or
- (10) insubordination, which is the willful failure or refusal to carry out a reasonable order from an authorized supervisor; or
- (11) absence from work after all authorized leave credits and benefits have been exhausted; or
- (12) unexcused absence from work without leave; or
- (13) inexcusable neglect of duty; or
- (14) gross inefficiency in the performance of duties; or
- (15) dishonesty with respect to any aspect of duties; or
- (16) engaging in political activity in violation of the code of ethics, section 10-501.

Sec. 10-704. Dismissal authority. (Old Sec. 10-158---revised)

- (a) Subject to the provisions of section 10-103, department heads have the authority to dismiss employees subordinate to them and the county manager has the authority to dismiss department heads subject to the disciplinary authority of the county manager.
- (b) Prior to dismissal, the dismissing authority shall notify the employee in writing of the proposed dismissal. The notice shall include the reason(s) for the proposed dismissal and a summary of the facts that constitute the basis for the proposed dismissal. The dismissing

authority shall inform the employee of the date, time, and place when the employee may explain the employee's side of the matter at a pre-discipline conference.

(c) In those cases where the dismissing authority determines that immediate removal of the employee from the job would be in the best interest of the department, the employee shall be placed on administrative leave with pay until a pre-discipline conference can be held.

(d) The employee shall be afforded a pre-discipline conference before the dismissing authority and a third person. The third person shall be a county employee or representative, not a member of that department, selected by the dismissing authority after consultation with the human resources director. The purpose of the pre-discipline conference is fact-finding, and, therefore, the employee is not entitled to have a representative or attorney at the conference. The employee shall be given an opportunity to present facts or reasons why the employee should not be terminated at the conference. The pre-discipline conference shall normally be conducted within 24 hours after the employee is notified in writing of the employee's proposed dismissal. Based on the employee's responses to the charges, the dismissing authority should determine whether there are reasonable grounds to believe that the charges are true, and if true, whether there are any reasons that would warrant the taking of less serious disciplinary action.

(e) If the dismissing authority finds the charges against the employee are true and that dismissal is appropriate, the dismissing authority shall dismiss the employee and notify the employee of the dismissal in writing. The written notice of dismissal shall state the specific acts or omissions that are the basis of the dismissal. If the dismissing authority is unable to determine that the employee should be dismissed at the time of the pre-discipline conference, the employee shall be placed on administrative leave with pay until the dismissing authority makes a determination to dismiss or reinstate the employee.

(f) When an employee is dismissed, the dismissing authority shall immediately submit a copy of the written notice of dismissal setting forth the specific acts or omissions that are the basis of the dismissal to the human resources director.

Sec. 10-705. Suspension. (Old Sec. 10-159---revised)

(a) During the investigation, hearing or trial of an employee on any criminal charge, or during any administrative or civil proceeding which reflects or could reflect upon the employee's continued fitness for public service, the department head may place the employee on administrative leave with pay.

(b) Employees involved in repeated infractions of written work rules or in conduct described in section 10-703 which do not warrant dismissal, may be suspended by the department head, without pay, for a period not to exceed ten workdays or eighty (80) hours, whichever is less.

(c) Prior to suspending an employee, a department head shall provide the employee written notice of the proposed action and conduct a pre-discipline conference in accordance with the procedures outlined in section 10-704.

Sec. 10-706. Demotion. (Old Sec. 10-160---revised)

(a) An employee whose work fails to meet the requirements for his position may be demoted, rather

(b) Prior to demoting an employee, a department head shall provide the employee written notice of the proposed action and conduct a pre-discipline conference in accordance with the procedures outlined in section 10-704.

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ARTICLE VIII. GRIEVANCES

Sec. 10-801. Filing a grievance. (Old Sec.10-125---revised)

(a) A grievance is a complaint by an employee alleging a violation of local, state or federal law or concerning a term or condition of employment, to include but not be limited to, adverse personnel actions. Performance evaluations, written warnings, the department's organization, staffing, method of operation, hours, or the employee's assignment, classification, salary or benefits are not subject to grievance.

(b) The employee shall make known his grievance within ten days of his or her gaining knowledge of the grievable condition or within ten days after he or she should have had knowledge of the grievable condition.

(c) Grievances shall be settled on an informal basis by the employee and his immediate supervisor, if possible. Grievances shall be discussed by the immediate supervisor and the employee within two working days following the employee's notification to the immediate supervisor of the grievance. The employee shall state, in at least general terms, the nature of the employee's grievance when the employee initially notifies the employee's immediate supervisor of the grievance.

(d) Grievances which are not settled by the employee and the immediate supervisor may be appealed. The appeal procedure may be a two-step process, first to the department head and then, if not resolved to the satisfaction of the employee, to the county manager. The employee shall submit an appeal in writing to the department head within ten days after the date of the informal conference with the employee's immediate supervisor. The department head shall, within five working days, make a decision on the appeal and issue a written reply to the employee.

(e) The employee may appeal to the county manager within ten working days after the date on which the department head issued a written reply to the employee. The county manager shall make a decision on the appeal and issue a written reply. The county manager may make the decision solely on the written materials provided by the employee and the department head; direct the employee, the department head or the human resources director to provide further information; or conduct a hearing and question witnesses. If the county manager decides to conduct a hearing and question witnesses, the employee shall be entitled to be represented by an attorney at the hearing. The county manager shall establish the rules as to how appeal hearings will be conducted. The action of the county manager shall be final except for those cases discussed in subsection (f) below.

(f) Department heads under the disciplinary authority of the county manager may file a grievance with the county manager. Grievances by department heads which are not resolved by the county manager may be appealed to the board of county commissioners. The decision of the board of commissioners shall be final.

(g) The board of county commissioners, in its discretion, may accept an appeal in any other case and its decision in such case shall be final.

(h) All appeals shall be in writing, shall state specifically the basis for the appeal, the action the appellant desires taken and the reasons for it. Copies of all appeals, responses to appeals, reports of hearing, and judgments arising out of a grievance shall become a permanent part of the employee's official personnel record.

(i) Appeal and grievance rights of employees subject to the *North Carolina Human Resources Act* shall be conducted in accordance with state personnel regulations governing employees of local governments.

Sec. 10-802. Grievances based on sexual harassment. (Old Sec. 10-126 revised)

(a) *Policy.* Sexual harassment of employees or applicants for employment, in any form, is prohibited. No personnel decisions shall be made on the basis of a granting or denial of sexual favors. All employees are guaranteed the right to work in an environment free from sexual harassment. The county manager shall establish policies and programs to ensure that worksites are free from sexual harassment. Department heads shall be responsible for preventing and/or correcting sexual harassment and for ensuring that no internal interference, coercion, restraint, or reprisal is taken against any person complaining of alleged sexual harassment.

(b) *Definition.* "Sexual harassment" is the deliberate, unsolicited and unwelcomed verbal and/or physical conduct of a sexual nature or with implications which:

- (1) Has or may have an effect on an employee's wages, terms or conditions of employment based on the employee's acceptance or rejection of such conduct;
- (2) Creates an intimidating, hostile, or offensive working environment; or
- (3) Interferes with an individual's work performance. Examples of sexual harassment include, but are not limited to, intentional physical contact (touching, patting, pinching), verbal abuse (offensive jokes, requests for sexual favors, demeaning statements), and taking employment action on the basis of sexual considerations.

(c) *Reporting sexual harassment.* Any county employee who feels he or she has been sexually harassed or believes another employee may be the subject of sexual harassment may file a grievance. A grievance may be filed with:

- (1) The employee's immediate supervisor in the case where the alleged harasser is a co-worker or member of the public;
- (2) The appropriate department head in those cases where the alleged harasser is in the direct supervisory chain of the employee and/or where the supervisor of the alleged harasser had knowledge of the harassment and took no action to prevent it;
- (3) The county manager, if the department head either was the harasser or had knowledge of the harassment and took no action to prevent or remedy it; or
- (4) The personnel director, if the employee does not wish to file a grievance under the departmental grievance system.

ARTICLE IX. CLAIMS AGAINST COUNTY OFFICERS AND EMPLOYEES

(Old Sec. 10-122 combined with 10-173-187---revised)

Sec. 10-901. Definitions.

- (a) *Act, conduct, duties performed.* The terms "act," "conduct" and "duties performed" shall include any activity undertaken by an employee or officer which reasonably appears to be within the scope of duties of such employee or officer or which the employee or officer reasonably believes to be within the scope of his or her duties of employment based upon all the facts and circumstances known to the employee or officer at the time.
- (b) *Challenged conduct.* "Challenged conduct" shall include all acts or conduct, whether it be an act of commission or omission, which is alleged to be unlawful or not authorized by law, whether or not such conduct is, in fact, improper, unlawful or not authorized by law.
- (c) *Claim.* "Claim" shall include any demand for compensation, whether referred to as all the possible rights accrued under a cause of action or as one particular item or issue for which relief is sought.
- (d) *Covered.* "Covered" under the meaning of this article shall include an employee or officer, if the employee's or officer's action was such as is described under subsection (a) of this section, and the employee or officer has not breached any of the five exclusion criteria listed in section 10-902.
- (e) *Employees and officers.* The terms "employees" and "officers" as used herein shall include all former and present elected officials; appointed officials, whether serving as employees of the county or as volunteer members of boards or committees appointed by the board of commissioners or appointed by other lawful authority; employees or officers of the county or of any agency of the county, including the sheriff's office or the office of the register of deeds, who might hereafter have claims filed, or judgments entered against them for duties performed when they were employees or officers of the county.

Sec. 10-902. Policy of county.

(a) It shall be the policy of the county to defend its employees and officers against civil claims and judgments which arise out of the performance of their official duties prescribed or approved by the board of county commissioners or otherwise directed by law, and to satisfy such claims and judgments, either in part or whole, unless it is determined that the employee or officer violated the following exclusion criteria in that he or she willfully:

- (1) Acted or failed to act because of actual fraud, corruption or actual malice;

- (2) Acted or failed to act as a result of, or at a time when, the employee or officer was intoxicated or under the influence of any illegal drugs used or consumed either before or during work hours, or was under the influence of any lawfully prescribed drugs that substantially impaired their judgment while on duty;
 - (3) Acted or failed to act in a specific factual occurrence, except in emergencies or in the existence of extenuating circumstances, directly contrary to the clear instructions from his or her superior, or directly contrary to the clear advice of the county attorney;
 - (4) Acted or failed to act in such manner as to constitute a willful criminal act (as, for example, misappropriation of property or funds); or
 - (5) Acted or failed to act in such a manner as to constitute gross negligence, inexcusable neglect or wanton or willful misconduct.
- (b) An employee or officer shall give the county attorney written notice of a claim within 72 hours of the employee or officer receiving notice of the claim.
- (c) The determination of whether the employee or officer has breached the exclusion criteria, and is thereby not covered within the meaning of this article, shall be made through the following preliminary screening procedure which may be initiated by the sheriff, the county attorney or the county manager upon notice of the possibility of a civil claim.
- (1) Civil liability investigation by the internal affairs unit of the sheriff's office,
 - (2) Review by the county attorney,
 - (3) Report by the sheriff's office legal advisor to the county attorney,
 - (4) County attorney's interview with employee or officer and subsequent determination, or
 - (5) Direct appeal by an employee or officer to the board of county commissioners.
- (d) If it is determined that the county will defend such officer or employee, the county shall notify such officer or employee immediately and provide the employee or officer a reasonable period of time to decide to accept the county's or hire private counsel.

Sec. 10-903. Litigation assistance.

Legal representation of any covered employee or officer shall be provided by the county attorney or his or her designee. Court costs and miscellaneous expenses of defending any action shall be provided by the county.

Sec. 10-904. Vicarious liability assistance account.

(a) Any covered employee or officer named as a defendant in a civil suit, who took no direct action and was only remotely or indirectly involved in the complained of incident, shall be provided legal representation by the county attorney or his or her designee.

(b) In the event a judgment is rendered against a covered employee or officer under a claim subject to this section, the county may pay out of its vicarious liability assistance account in aid of settlement of any judgment, amounts up to the account at the time the defendant's request for payment is approved by the board of county commissioners. No payment made shall include punitive damages.

Sec. 10-905. Limitations of coverage.

(a) The policies specified herein shall not be applicable unless notice of the claim or suit is given to the board of county commissioners prior to the time the claim is settled or civil suit is litigated and judgment is entered.

(b) This provisions of this article shall not be interpreted in any way to relieve any insurance company of its obligation under any insurance policy to protect the interests of any insured under such policy, or to reduce or eliminate the rights of any officer or employee of the county against any other party. Further, except as expressly stated herein, this article is not to be interpreted as a waiver of any rights the county has against any party.

(c) Notwithstanding any of the provisions of this article, the board of commissioners hereby expressly reserves its governmental immunity from suit against the county or other county employees. It further expressly states that the purpose of this article is to establish the county's policy concerning the defense of employees or officers pursuant to G.S. § 160A-167(c).

(d) No payment of judgments shall be made unless the covered employee or officer makes a request to the board of county commissioners and the board determines that:

(1) The employee or officer, whether present or former, acted in good faith and reasonably at all times during the conduct upon which the claim arose; and,

(2) The employee or officer, upon being specifically informed that the employee's or officer's activities were illegal, took reasonable steps to mitigate damages of the injured party; or, upon being specifically informed that the employee's or officer's activities may be illegal, took reasonable steps to clarify the legality of the employee's or officer's actions, and to mitigate damages if it is learned that the employee or officer is acting illegally, unless an emergency should preclude such inquiry.

Sec. 10-906. Procedure for settlement of administrative claims.

(a) The county manager shall receive and investigate claims. The county manager shall determine whether any such claim arises from an accident, occurrence, or omission which is covered by existing liability insurance and shall promptly forward to the appropriate county

insurance carrier any claim covered by such liability insurance. If the claim is uninsured, then the county manager shall cause a prompt investigation and process such claim.

(b) The county manager as provided in subsection (a) shall receive and investigate every judicial or administrative process served upon the county or upon a county employee or officer which makes a claim against the county or an employee or officer of the county. The county manager shall forward a copy of every judicial or administrative process to the county attorney's office upon receipt. The county manager shall promptly inform the county attorney whenever any judicial or administrative action is not covered by liability insurance and is to be processed as a retained risk. Under such circumstances, the county attorney may undertake or otherwise provide for the defense of the county and, where consistent with county policy and uniform standards, its employees or officers.

(c) The county manager is authorized to compromise or to settle any claim made against the county or any employee or officer of the county that is neither covered by insurance nor by governmental immunity whenever the county manager determines that:

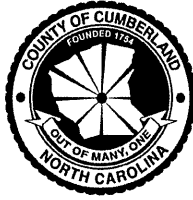
- (1) There is no insurance coverage for the claim;
- (2) The amount of the proposed settlement or compromise is \$5,000.00 or less;
- (3) There is legal basis for the claim asserted;
- (4) The claim of the complaining party is meritorious; and
- (5) With respect to claims against county employees or officers, the compromise or settlement of the claim by the county on behalf of the employee or officer is consistent with the policy and uniform standards of the county in such matters.

(d) The county manager may deny a claim for good reason.

(e) The county manager shall consult with the county attorney before the denial, settlement, or compromise of a claim pursuant to this section.

(f) The county manager shall maintain a record of every claim which is settled or compromised pursuant to this section. Such records shall be in sufficient detail to disclose the nature of the settlement, the amount and terms of the settlement, and the parties thereto. The records so maintained shall be public records. The county manager shall make a report to the board of commissioners of claims which the county manager has settled or compromised on the agenda for the board's next meeting.

RICKEY L. MOOREFIELD
County Attorney



ITEM NO. 4.

PHYLLIS P. JONES
Assistant County Attorney

ROBERT A. HASTY, JR.
Assistant County Attorney

OFFICE OF THE COUNTY ATTORNEY

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**MEMORANDUM FOR THE AGENDA OF THE
JUNE 2, 2016, MEETING OF THE POLICY COMMITTEE**

TO: POLICY COMMITTEE

FROM: WRECKER REVIEW BOARD
THROUGH: LEGAL DEPARTMENT

DATE: MAY 24, 2016

**SUBJECT: REVISION TO RULE 24 OF "WRECKER AND TOW SERVICE RULES
AND REGULATIONS"**

Requested by: Wrecker Review Board

Presenter(s): Jay Barr, Wrecker Review Board
Rob Hasty, Assistant County Attorney

Estimate of Committee Time Needed: 10 minutes

BACKGROUND:

County Ordinance 9-64 states "The Board of Commissioners from time to time, may adopt such regulations and rules as deemed advisable for the administration of this article, whether on recommendation of the Wrecker Review Board or on the initiative of the Board of Commissioners." The Wrecker Review Board recommends that Rule 24 be revised as follows to make it uniform with the Rules and Regulations with the City of Fayetteville Wrecker Review Board and to assist in securing payment for towing services.

Current Rule 24: Upon request or demand, the rotation wrecker companies will return personal property stored in or with the vehicle, whether or not the towing, repair, or storage fee on the vehicle has been or will be paid. Personal property for the purposes of this provision includes any goods, wares, freight or any other property not requiring tools to remove from the vehicle.

Proposed Rule 24: Upon request or demand, and proof of ownership or right of possession, an operator shall return personal property stored in a vehicle, provided that all authorized charges for towing of the vehicle have been paid. An operator may not require payment of any storage fees as a prerequisite to release personal property. Any items attached to the vehicle such that a tool of any type is required for removal is not considered personal property under this provision.

The Wrecker Review Board previously came before the Policy Committee on September 4, 2014, with proposed revised language for Rule 24. The consensus of the Policy Committee at that time was for the Wrecker Review Board to return with a different proposal at a later date. The new proposal presented at this time mirrors the rule for the City of Fayetteville's Wrecker Review Board.

RECOMMENDATION/PROPOSED ACTION:

The Wrecker Review Board recommends that Rule 24 be revised as set forth above.

RICKEY L. MOOREFIELD
County Attorney



ITEM NO. 5.

PHYLLIS P. JONES
Assistant County Attorney

ROBERT A. HASTY, JR.
Assistant County Attorney

OFFICE OF THE COUNTY ATTORNEY

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**MEMORANDUM FOR THE AGENDA OF THE
JUNE 2, 2016, MEETING OF THE POLICY COMMITTEE**

TO: POLICY COMMITTEE

FROM: ANIMAL CONTROL

THROUGH: LEGAL DEPARTMENT AND COUNTY MANAGEMENT

DATE: May 24, 2016

**SUBJECT: POSSIBLE REVISIONS TO SECTION 3-75 OF THE ANIMAL CONTROL
ORDINANCE REGARDING HORSES AND ROOSTERS AT THE
REQUEST OF THE CITY OF FAYETTEVILLE**

Requested by: Animal Control Department

**Presenter(s): Dr. John Lauby, Director, Animal Control Department
Rob Hasty, Assistant County Attorney
Tracy Jackson, Assistant County Manager**

Estimate of Committee Time Needed: 10-15 minutes

BACKGROUND:

The County Animal Control Ordinance has been adopted by the municipalities in Cumberland County, and Animal Control enforces the ordinance throughout the entire County by interlocal agreement with the municipalities. Recently, staff from the City of Fayetteville reached out to staff from Cumberland County regarding changes desired in the Animal Control Ordinance. City Council members have received complaints that Fayetteville residents have horses in their back yards as well as roosters crowing in neighborhoods, neither of which is specifically prohibited by the relevant provisions of the animal control ordinance (Section 3-75. "Provisions only applicable within the corporate limits of any municipality"). Tracy Jackson, John Lauby, Rob Hasty, and Lisa Childers met with City staff members Lisa Harper (Assistant City Attorney) and Scott Shuford (Code Enforcement) to learn about the city's concerns and to discuss possible solutions.

The following revisions to Section 3-75(b) and (c) have been prepared by staff to resolve the City's concerns.

(b) No horse, mule, pony, cow, or goat shall be stabled or housed within 100 feet of any dwelling house, school, church, or eating establishment or on a lot less than one-half acre within the corporate limits of any municipality in which this chapter is applied.

(c) No more than ten ~~chickens~~ hens or rabbits shall be kept, housed, or penned at a dwelling or on the lot on which such dwelling is located within the corporate limits of any municipality in which this chapter is applied.

The City requests that Dr. Lauby appear at the City Council work session on June 6th and present these proposed changes to the ordinance for discussion. Ultimately, the City Council of Fayetteville will likely recommend that the Board of Commissioners revise the ordinance as above or otherwise.

This ordinance provision applies to all municipalities in the County, so the language will need to be provided to them for comment.

RECOMMENDATION/PROPOSED ACTION:

No action is requested at this time. This is presented for information purposes only.