

**AVERY COUNTY FIRE COMMISSION
PERSONNEL POLICY**

The following policies apply to the appointment, classification, benefits, salary, promotion, demotion, dismissal, and conditions of employment of the employees of the Avery County Fire Commission.

<u>Article</u>	<u>Title</u>	<u>Page</u>
Article I	General Provisions	6
	Section 1. Purpose of the Chapter	6
	Section 2. At Will Employment	6
	Section 3. Merit Principles	6
	Section 4. Responsibilities of the Fire Commission	6
	Section 5. Responsibilities of the Fire Dept. Coordinator	7
	Section 6. Application of Policies, Plans, Rules, and Regulations	8
	Section 7. Departmental Rules and Regulations	8
	Section 8. Definitions	8
Article II	Position Classification Plan	9
	Section 1. Purpose	9
	Section 2. Composition of the Position Classification Plan	9
	Section 3. Use of the Position Classification Plan	10
	Section 4. Administration of the Position Classification Plan	10
	Section 5. Adoption of the Position Classification Plan	10
	Section 6. Request for Reclassification	10
Article III	Pay Plan	11
	Section 1. Definition	11
	Section 2. Administration and Maintenance	11
	Section 3. Cost of Living Adjustments	11
	Section 4. Starting Salaries	11
	Section 5. Trainee Designation and Provisions	12
	Section 6. Merit Pay	12

Section 7. Merit Pay Bonus	12
Section 8. Salary Effect of Promotions, Demotions, Transfers, and Reclassifications ..	13
Section 9. Effective Date of Salary Change	13
Section 10. Overtime Pay Provisions	14
Section 11. Payroll Deductions	15
Section 12. Hourly Rate of Pay	15
 Article IV Recruitment and Employment	 16
Section 1. Equal Employment Opportunity Policy	16
Section 2. Implementation of Equal Employment Opportunity Policy	16
Section 3. Recruitment, Selection, and Appointment	16
Section 4. Probationary Period	17
Section 5. Promotion	18
Section 6. Demotion	18
Section 7. Transfer	18
 Article V Conditions of Employment	 19
Section 1. Work Schedule	19
Section 2. Political Activity	19
Section 3. Outside Employment	20
Section 4. Employment of Relatives	20
Section 5. Harassment	20
Section 6. Acceptance of Gifts and Favors	21
Section 7. Performance Evaluation	21
Section 8. Safety	21
Section 9. Immigration Law Requirements	21
Section 10. Use of Commission Owned Vehicles	22
Section 11. Driving Records	22
Section 12. Dress Standards	22
Section 13. Drug Testing Policy	22a – i
 Article VI Employee Benefits	 23
Section 1. Eligibility	23
Section 2. Group Health and Hospitalization Insurance	23
Section 3. Other Optional Group Insurance Plans	23
Section 4. Retirement	23

Section 5. Social Security	23
Section 6. Workers' Compensation	24
Section 7. Unemployment Compensation	24
Article VII Holidays and Leaves of Absence	25
Section 1. Policy	25
Section 2. Holidays	25
Section 3. Holidays: Compensation When Work Is Required	25
Section 4. Vacation Leave	25
Section 5. Vacation Leave: Use by Probationary Employees	26
Section 6. Vacation Leave: Accrual Rate	26
Section 7. Vacation Leave: Maximum Accumulation	26
Section 8. Vacation Leave: Manner of Taking	26
Section 9. Vacation Leave: Payment Upon Separation	27
Section 10. Vacation Leave: Payment Upon Death	27
Section 11. Bereavement Leave	27
Section 12. Sick Leave	27
Section 13. Sick Leave: Accrual Rate and Accumulation	28
Section 14. Sick Leave: Medical Certification	28
Section 15. Leave Sharing	29
Section 16. Workers' Compensation Leave	29
Section 17. Military Leave	29
Section 18. Reinstatement Following Military Service	30
Section 19. Civil Leave	30
Article VIII Separation and Reinstatement	30
Section 1. Types of Separations	30
Section 2. Resignation	31
Section 3. Reduction in Force	31
Section 4. Disability	31
Section 5. Death	31
Section 6. Dismissal	31
Section 7. Reinstatement	32
Section 8. Rehiring	32

Article IX	Unsatisfactory Job Performance and Detrimental Personal Conduct	32
	Section 1. Disciplinary Action for Unsatisfactory Job Performance	32
	Section 2. Unsatisfactory Job Performance Defined	32
	Section 3. Communication and Warning Procedures Preceding Disciplinary Action for Unsatisfactory Job Performance	33
	Section 4. Disciplinary Action for Detrimental Personal Conduct	34
	Section 5. Detrimental Personal Conduct Defined	34
	Section 6. Pre-Disciplinary Conference	35
	Section 7. Non-disciplinary Suspension	35
Article X	Grievance Procedures and Adverse Action Appeal	36
	Section 1. Policy	36
	Section 2. Grievance Defined	36
	Section 3. Purposes of the Grievance Procedure	36
	Section 4. Procedure	37
	Section 5. Grievance and Adverse Action Appeal Procedure for Discrimination	38
	Section 6. Back Pay Awards	38
	Section 7. Employee Representation.....	38
Article XI	Personnel Records and Reports	39
	Section 1. Public Information	39
	Section 2. Access to Public Records	39
	Section 3. Personnel Actions	40
	Section 4. Records of Former Employees	40
	Section 5. Remedies of Employees Objecting to Material in File	40
	Section 6. Penalties for Permitting Access to Confidential Records	40
	Section 7. Examining and/or Copying Confidential Material without Authorization	41
	Section 8. Destruction of Records Regulated	41

Article XII	Implementation of Policies.....	41
Section 1.	Conflicting Policies Repealed	41
Section 2.	Separability	41
Section 3.	Effective Date	42

ARTICLE I. GENERAL PROVISIONS

Section 1. Purpose of the Chapter

It is the purpose of this policy and the rules and regulations set forth to establish a fair and uniform system of personnel administration for all employees of the Commission under the supervision of the Avery County Fire Department Coordinator and the Chief of the Fire Department or Rescue Department. (Nothing in this policy creates an employment contract or term between the Commission and its employees.)

Section 2. At Will Employment

The Avery County Fire Commission is an “at will” employer. Nothing in this policy creates an employment contract or term between the Commission and its employees. No person has the authority to grant any employee any contractual rights of employment.

Section 3. Merit Principles

All appointments and promotions shall be made solely on the basis of merit. All positions requiring the performance of the same duties and fulfillment of the same responsibilities shall be assigned to the same class and the same salary range. No applicant for employment or employee shall be deprived of employment opportunities or otherwise adversely affected as an employee because of such individual’s race, color, religion, sex, national origin, political affiliation, non-disqualifying disability or age.

Section 4. Responsibilities of the Fire Commission

The Fire Commission shall be responsible for establishing and approving personnel policies, the position classification and pay plan, and it may change the policies and benefits as necessary. The Fire Commission, upon the recommendation of the Fire Department Coordinator and Chief, shall appoint, suspend, and remove any Commission employees. The Fire Commission shall make appointments, dismissals and suspensions

Section 5. Responsibilities of the Fire Department Coordinator

The Fire Department Coordinator and the Chief of each respective department shall be responsible to the Fire Commission for the administration and technical direction of the personnel program.

The Fire Department Coordinator shall:

- a) recommend rules and revisions of the personnel system to the Fire Commission for consideration;
- b) make changes as necessary to maintain an up to date and accurate position classification system;
- c) recommend revisions to the pay plan to the Fire Commission for approval;
- d) recommend which employees shall be subject to the overtime provisions of Fair Labor Standards Act;
- e) establish and maintain a roster of all persons and authorized positions service, setting forth each position and employee, class, title of position, salary, any changes in class title and status, and such data as may be desirable or useful;
- f) develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the Commission;
- g) develop and coordinate training and educational programs for Commission employees;
- h) oversee the operation and effect of the personnel provisions of this chapter; and
- i) perform such other duties as may be assigned by the Fire Commission not inconsistent with this Chapter.

Section 6. Application of Policies, Plan, Rules, and Regulations

The personnel policy and all rules and regulations adopted pursuant thereto shall be binding on all Commission employees. The Fire Commission, Commission Attorney, members of the Fire Commission and advisory boards and commissions will be exempted except in sections where specifically included. An employee violating any of the provisions of this policy shall be subject to appropriate disciplinary action, as well as prosecution under any civil or criminal laws which have been violated.

Section 7. Departmental Rules and Regulations

Due to the particular personnel and operational requirements of the various departments of the Commission, each department is authorized to establish supplemental rules and regulations applicable only to the personnel of that department. All such rules and regulations shall be subject to the approval of the Fire Commission, and shall not in any way conflict with the provisions of this Policy, but shall be considered as a supplement to this Chapter. If a conflict arises, the provisions of this Policy shall be followed.

Section 8. Definitions

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

Full-time employee. An employee who is in a position for which an average work week equals at least 40 hours, and continuous employment of at least 12 months, is required by the Commission.

Immediate Family. Immediate family shall be defined as spouse, parent, mother-in-law, father-in-law, guardian, children, sister, brother, grandparents, grandchildren, plus the various combinations of half, step, and adopted relationships that can be derived from those named.

Part-time employee. An employee who is in a position for which an average work week of 20 hours but less than 40 hours and continuous employment of at least 12 months is required by the Commission.

Regular employee. An employee appointed to a full or part-time position who has successfully completed the designated probationary period of six months.

Probationary employee. A fully certified employee appointed to a full or part-time position who has not yet successfully completed the designated probationary period of

six months.

Temporary employee. An employee appointed to a position for which either the average work week required by the Commission over the course of a year is less than 20 hours, or continuous employment required by the Commission is less than 12 months.

Trainee. An employee status when an applicant is hired who does not meet all of the requirements for the position. A trainee is given a maximum of two years to obtain all certifications required for the position in order to become a regular employee. During the duration of a trainee appointment, the employee is on probationary status.

ARTICLE II. POSITION CLASSIFICATION PLAN

Section 1. Purpose.

The position classification plan provides a complete inventory of all authorized and permanent positions in the Commission service, and an accurate description and specification for each class of employment. The plan standardizes job titles, each of which is indicative of a definite range of duties and responsibilities.

Section 2. Composition of the Position Classification Plan

The classification plan shall consist of:

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

Section 3. Use of the Position Classification Plan

The classification plan is to be used:

- a) as a guide in recruiting and examining applicants for employment;
- b) in determining lines of promotion and in developing employee training programs;
- c) in determining salary to be paid for various types of work;
- d) in determining personnel service items in departmental budgets; and
- e) in providing uniform job terminology.

Section 4. Administration of the Position Classification Plan

The Fire Commission shall allocate each position covered by the classification plan to its appropriate class, and shall be responsible for the administration of the position classification plan. The Fire Commission shall periodically review portions of the classification plan and make minor revisions to ensure that classifications accurately reflect current job duties and responsibilities. The Fire Commission shall also periodically review the entire classification plan and, when needed, make changes.

Section 5. Adoption of the Position Classification Plan

The position classification plan shall be adopted by the Fire Commission and shall be on file with the Fire Commission and Commission Secretary. Copies shall be available to Commission employees for review upon request to the Fire Department Coordinator. New positions shall be established upon recommendation of the Fire Department Coordinator and approval of the Fire Commission, after which the Fire Commission shall either allocate the new position into the appropriate existing class, or amend the position classification plan to establish a new class to which the new position may be allocated.

Section 6. Request for Reclassification

Any employee who considers the classification of position which he/she occupies to be improper shall submit a request in writing for reclassification to the Chief, who shall immediately transmit the request to the Fire Department Coordinator. Upon receipt of such request, the Fire Department Coordinator shall study the request, determine the merit of the reclassification, and forward the recommendation to the Fire Commission

for consideration.

ARTICLE III. THE PAY PLAN

Section 1. Definition

The pay plan includes the basic Salary Schedule and the "Assignment of Classes to Salary Grades and Ranges" adopted by the Fire Commission. The salary schedule consists of a minimum and maximum salary for each job classification approved by the Fire Commission. Salary increases within the pay range shall be based on criteria established by the Fire Commission and approved by the Fire Commission.

Section 2. Administration and Maintenance

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

The pay plan is intended to provide equitable compensation for all positions, reflecting differences in the duties and responsibilities, the comparable rates of pay for positions in public employment in the area, changes in the cost of living, the financial conditions of the Commission, and other factors. To this end, from time to time the Fire Commission shall make comparative studies of all factors affecting the level of salary ranges and may make minor adjustments in the allocation of positions to salary grades.

Section 3. Cost of Living Adjustments

Annually the Fire Commission will consider and may adjust the Commission's pay plan in accordance with the amount of consumer price index, depending on the availability of funds. The salary schedule will be adjusted by the approved cost of living increase. Employees' salaries will be adjusted by the amount of the approved pay plan adjustment for the cost of living.

Section 4. Starting Salaries

All persons employed in positions approved in the position classification plan normally shall be employed at the minimum salary for the classification in which they are employed; however, on the recommendation of the Fire Department Coordinator, with the approval of the Fire Commission, employee salaries may be approved above the minimum. Reasons for hiring above the minimum include exceptional education and

experience qualifications of the applicant, a shortage of qualified applicants, and the refusal of qualified applicants to accept employment at the minimum.

Pay for part-time or temporary status will be paid a prorated amount determined by converting the established salary range to an hourly rate.

Section 5. Trainee Designation and Provisions

Applicants being considered for employment or Commission employees who do not meet all of the requirements for the position for which they are being considered may be hired, promoted, demoted, or transferred by the Fire Commission to a "trainee" status. In such cases, a plan for training, including a time schedule, must be prepared by the Fire Department Coordinator. An employee shall remain at the trainee salary level until the Fire Department Coordinator certifies that the trainee is qualified to assume full responsibilities of the position and the Fire Commission approves the certifications. The Fire Department Coordinator shall review the progress of each employee in a trainee status every six months or more frequently as necessary to determine when the trainee is qualified to assume full responsibilities of the position. A new employee designated as "trainee" shall be regarded as a probationary employee. Trainees may be given up to two years to complete all required certifications, and they may be hired at a rate below the minimum salary for the classification for which they are employed.

If the training is not successfully completed within the time frame planned, the trainee may be transferred, demoted, or dismissed, or may be reviewed by the Fire Commission and possibly given an extension of time in certain circumstances. If the training is successfully completed, the employee shall be paid at least at the minimum rate established for the position for which the employee was trained.

Section 6. Merit Pay

Upward movement within the established salary range for an employee is not automatic but rather based specific performance related reasons. Employees may be considered for advancement within the established salary range based on the quality of their overall performance on an annual basis. All increases will be approved by the Fire Commission.

Section 7. Merit Pay Bonus

Employees who are at the top step of the salary range for their position classification are eligible to be considered for a merit bonus at their regular performance evaluation time. Merit bonuses shall be awarded based upon the performance of the employee as described in the performance evaluation and shall be the same percentage of annual

salary as employees within the salary range with the same performance level. Merit bonuses do not become part of the base pay and shall be awarded in a lump sum payment.

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

Promotions. When an employee is promoted, the employee's salary shall normally be advanced to the minimum level of the new position, or to a salary which provides an increase of at least approximately 5% over the employee's salary before the promotion, provided, however, that the new salary may not exceed the maximum rate of the new salary range. The purpose of the promotion pay increase is to recognize and compensate the employee for taking on increased responsibility.

Demotions. When an employee is demoted to a position for which qualified, the salary shall be set at the rate in the lower pay range which provides the smallest decrease in pay if action is not for cause. If the current salary is within the new range, the employee's salary may be retained at the previous rate. If the demotion is for cause, the salary shall be decreased at least approximately 5%, or to the maximum of the new range.

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

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

Section 9. Effective Date of Salary Changes

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

Section 10. Overtime Pay Provisions

Employees of the Commission can be requested and may be required to work overtime hours as necessitated by the needs of the Commission and determined by the Chief with approval from the Fire Department Coordinator.

To the extent that local government jurisdictions are so required, the Commission will comply with the Fair Labor Standards Act (FLSA). The Fire Commission shall determine which jobs are "non-exempt" and are therefore subject to the Act in areas such as hours of work and work periods, rates of overtime compensation, and other provisions.

Non-exempt employees will be paid at a straight time rate for hours up to the FLSA established limit for their position. Employees in public safety job classes earn overtime based on a 28 day time period; overtime does not occur for personnel until 212 hours are worked.

In determining eligibility for overtime in a work period, only hours actually worked shall be considered; in no event will vacation, sick leave, or holidays be included in the computation of hours worked for FLSA purposes.

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

Compensatory time off may be granted whenever feasible and determined by the Fire Commission, based on recommendation from the Fire Department Coordinator.

In emergency situations, where employees are required to work long and continuous hours, the Fire Commission may approve compensation at time and one half (1 1/2) for those hours worked and/or grant time off with pay for rest and recuperation to ensure safe working conditions. In the case compensation time is earned, it must be taken off within the current budget year and can be accrued up to 40hrs.any over 40hrs. Will have to be taken within the following pay period unless otherwise approved by the Chief and or Fire Department Coordinator.

Section 11. Payroll Deduction

Deductions shall be made from each employee's salary, as required by law. Additional deductions may be made upon the request of the employee on determination by the Fire Commission as to capability of payroll equipment and appropriateness of the deduction.

Section 12. Hourly Rate of Pay

Employees working in a part-time or temporary capacity with the same duties as full-time employees will work at a rate in the same salary range as the full-time employees working 40 hours per week.

ARTICLE IV. RECRUITMENT AND EMPLOYMENT

Section 1. Equal Employment Opportunity Policy

It is the policy of the Commission to foster, maintain and promote equal employment opportunity. The Commission shall select employees on the basis of the applicant's qualifications for the job and award them, with respect to compensation and opportunity for training and advancement, including upgrading and promotion, without regard to age, sex, race, color, religion, national origin, non-job related handicap, political affiliation, or marital status. Applicants with physical handicaps shall be given equal consideration with other applicants for positions in which their physical handicaps do not represent an unreasonable barrier to satisfactory performance of duties with or without reasonable accommodation.

Section 2. Implementation of Equal Employment Opportunity Policy

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

Section 3. Recruitment, Selection and Appointment

Recruitment Sources. When position vacancies occur, the Fire Department Coordinator shall notify the Fire Commission concerning the number and classification of positions which are to be filled. These opportunities for employment, including applicable salary information and employment qualifications shall be publicized by the departments. Information on job openings and hiring practices shall be provided to recruitment sources, including organizations and news media available to minority applicants. In addition, notice of vacancies shall be posted at designated conspicuous sites within departments. Individuals shall be recruited from a geographic area as wide as necessary to ensure that well-qualified applicants are obtained for Commission service.

Job Advertisements. Employment advertisements shall contain assurances of equal

employment opportunity and shall comply with Federal and State statutes.

Application for Employment. All persons expressing interest in employment with the Commission shall be given the opportunity to file an application for employment for positions which are vacant.

Application Reserve File. Applications shall be kept in an inactive reserve file in the Fire Department Coordinator's Office for a period of two years, in accordance with Equal Employment Opportunity Commission guidelines.

Selection. The Fire Department Coordinator and Chief shall make such investigations and conduct such examinations as necessary to assess accurately the knowledge, skills, and experience qualifications required for the position and approved in the Position Classification Plan.

Appointment. Before any commitment is made to an applicant, either internal or external, the Fire Department Coordinator, Chief and one Fire Commission member will interview the applicants and make a recommendation. The Fire Commission shall approve appointments and the starting salary for all applicants.

Section 4. Probationary Period

An employee appointed or promoted to a permanent position shall serve a probationary period. Employees shall serve a six month probationary period. Employees hired as "trainees" shall remain on probation until the provisions of their traineeship are satisfied.

During the probationary period, the Fire Department Coordinator and Chief shall monitor employee's performance and communicate with the employee concerning performance progress. Before the end of the probationary period, the Fire Department Chief shall determine whether or not the employee is performing satisfactory work and meeting job expectations. The employee's progress (accomplishments, strengths, and weaknesses) will be discussed with the employee and a summary of this discussion should be documented in the employee's personnel file. The Department Chief shall recommend in writing whether the probationary period should be completed, extended, or the employee transferred, demoted, or dismissed. Probationary periods may be extended for a maximum of six additional months.

Disciplinary action, including demotion and dismissal, may be taken at any time during the probationary period of a new hire without following the steps outlined in this Policy for disciplinary action. A promoted employee who does not successfully complete the probationary period may be transferred or demoted to a position in which the employee shows promise of success. If no such position is available, the employee shall be dismissed. Promoted employees retain all other rights and benefits such as the right to use the grievance procedures.

Probationary employees are not eligible for retirement benefits during the probationer period however probation employees are eligible for other benefits cited in this policy; however, vacation leave may not be taken within this period unless approved by the Dept. Chief and or Fire Department Coordinator.

Section 5. Promotion

Promotion is the movement of an employee from one position to a vacant position in a class assigned to a higher salary range. It is the Commission's policy to create career opportunities for its employees whenever possible. Therefore, when a current employee applying for a vacant position is best suited of all applicants, that applicant shall be promoted to that position. The Commission will balance three goals in the employment process: 1) the benefits to employees and the organization of promotion from within; 2) providing equal employment opportunity and a diversified workforce to the community; and 3) obtaining the best possible employee who will provide the most productivity in that position.

Candidates for promotion shall be chosen on the basis of their qualifications and their work records.

Section 6. Demotion

Demotion is the movement of an employee from one position to a position in a class assigned to a lower salary range. An employee whose work or conduct in the current position is unsatisfactory may be demoted provided that the employee shows promise of becoming a satisfactory employee in the lower position. Such demotion shall follow the disciplinary procedures outlined in this chapter. Demoted employees may appeal this decision based on the Grievance Process outlined in this Personnel Policy.

Section 7. Transfer

Transfer is the movement of an employee from one position to another position in a class at the same salary range. If a vacancy occurs and an employee in another department is eligible for a transfer, the employee may request the transfer. The Fire Department Coordinator shall make a recommendation to the Fire Commission. An employee who has successfully completed a probationary period may be transferred into the same classification without serving another probationary period.

It is the policy of the Commission to allow the Fire Department Coordinator to transfer employee(s) temporarily from one department to another when doing so will better serve the Fire Commission's best interest, to permit maximum utilization of personnel during unanticipated emergency situation, during peak workloads, and for shifting help to where it is most needed.

ARTICLE V. CONDITIONS OF EMPLOYMENT

Section 1. Work Schedule

The Chief of the Fire Department or Rescue Department shall establish work schedules, with the approval of the Fire Department Coordinator, to meet the operational needs of the department in the most cost effective manner possible.

All employees will submit proposed work schedules to the Fire Department Coordinator each pay period if request of leave or change of normal work hours or part time Employee. On each scheduled workday, each employee must check in through Communications Department upon arrival for shift and check out upon departure at the end of shift. It will be the responsibility of the employee to insure that he is logged on and off duty.

Normally a full-time employee works an eight hour day for five days per week between the hours of 7:00am and 3:00pm Monday through Friday for a total of forty hours during a work week. Employees may work up to 212 hours within a twenty eight day cycle. NO FIRE COMMISSION EMPLOYEE IN THIS WORK SCHEDULE SHALL PARTICIPATE IN ANY FUND RAISER ACTIVITIES FOR ANY DEPARTMENT WITHOUT PRIOR APPROVAL FROM THE AVERY COUNTY FIRE COMMISSION.

Training required by the Fire Commission will be provided in Avery County. If there is an insufficient number of a person attending to meet Mayland Community College requirements, the Fire Commission will pay the cost of instructor's fees for the class. Any training outside Avery County which is not required or mandated by the Fire Commission will not be paid for by the Fire Commission unless special prior approval has been granted by the Fire Commission, and that training may not take place during regular working hours unless special prior approval has been given. All requests for training must be turned in to the Fire Department Coordinator no later than one Fire Commission meeting before such class or training begins if it is being held during normal work schedule.

Section 2. Political Activity

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

- a) Engage in any political or partisan activity while on duty;
- b) Use official authority of influence for the purpose of interfering with or affecting the result of a nomination or an election for office;
- c) Be required as a duty of employment or as condition for employment, promotion or tenure of office to contribute funds for political or partisan purposes.
- d) Coerce or compel contributions from another employee of the Commission for political or

- e) partisan purposes;
Use any supplies or equipment of the Commission for political or partisan purposes;
- f) Be a candidate for appointment, nomination or election to the Avery County Fire Commission Board or be a candidate for appointment, nomination or election to the office of Avery County Commissioner. Employees who wish to run for County Commissioner or who wish to be appointed to the Avery County Fire Commission must first resign. Employees may be a candidate for any other office.

Section 3. Outside Employment

All outside employment for salaries, wages, or commission and all self-employment must be reported in advance to the Chief and Fire Department Coordinator, who in turn will report it to the Fire Commission. The Fire Commission will review such employment for possible conflict of interest and then approve or disapprove the secondary employment. If subsequent questions or issues arise, the employee must provide full disclosure regarding all aspects of secondary employment. Conflicting or unreported outside employment is grounds for disciplinary action up to and including dismissal. Employee will not be permitted to work any outside employment 8 hours before coming on duty for the Avery County Fire Commission.

Section 4. Employment of Relatives

The Commission prohibits the hiring of immediate family in regular positions within the same work unit. "Immediate Family" is defined in Article I, Section 8. The Commission also prohibits the employment of any person into a regular position who is an immediate family member of individuals holding the following positions: Chief, Fire Commission Member, Fire Marshall, Fire Department Coordinator or Commission Attorney. Otherwise, the Commission will consider employing family members or related persons in the service of the Commission, provided that such employment does not result in a relative supervising relatives.

Section 5. Harassment

Harassment on the basis of race, color, religion, gender, national origin, age or disability constitutes discrimination. The Commission opposes harassment by supervisors and employees of the Commission in any form. Harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his or her race, color, religion, gender, national origin, age, or disability, or that of his or her relatives, friends, or associates.

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's

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

Any employee or witness who believes that he or she may have a complaint of harassment may file the complaint directly with the Fire Commission and /or Fire Department Coordinator.

Section 6. Acceptance of Gifts and Favors

No official or employee of the Commission shall accept any gift, favor, or thing of value that may tend to influence such employee in the discharge of the employee's duties, or grant in the discharge of duty an improper favor, service, or thing of value.

Section 7. Performance Evaluation

Department Chief shall conduct performance evaluations conferences with each employee at least once a year. These performance evaluations shall be documented in writing and placed in the employee's personnel file in the Fire Department Coordinators Office.

Section 8. Safety

Safety is the responsibility of both the Commission and employees. It is the policy of the Commission to establish a safe work environment for employees. The Commission shall establish a safety program including policies and procedures regarding safety practices and precautions and training in safety methods. Chiefs and the Fire Department Coordinator are responsible for insuring the safe work procedures of all employees and providing necessary safety training programs. Employees shall follow the safety policies and procedures and attend safety training programs. Employees who violate such policies and procedures shall be subject to disciplinary action up to and including dismissal.

When responding to fire, rescue or other emergency situations, the employee shall comply completely with Fire Commission policy regarding safe response. In no case shall Fire Commission employees operate a vehicle in excess of 10 miles per hour over the posted speed limit or any speed which may endanger the lives or property of the public.

As a part of its safety program, the Fire Commission will approve a detailed drug and alcohol abuse policy with accompanying processes and procedures.

Section 9. Immigration Law Requirements

All employees are required to furnish proof of citizenship or other required documents indicating a legal right to work in the United States. Copies of the completed I-9 form shall be a permanent part of their personnel file.

Section 10. Use of Commission Owned Vehicles

All Commission employees, who are assigned or authorized to use Commission vehicles shall use them only in the course of the employee's assigned duties and responsibilities as an employee of the Commission, and only relating to the specific position for which that employee is employed. An employee who violates these requirements and privileges will be subject to disciplinary action, loss of vehicle use privileges, and possible termination of employment.

Section 11. Driving Records

Any Fire Commission employee who receives a moving violation of any type (to include a seat belt violation), must notify the Chief and Fire Department Coordinator with 24 hours of said violation.

Section 12. Appearance Standards

The Commission seeks to promote professionalism in the workplace by establishing dress standards for its employees and providing the uniforms. The uniforms provided must be worn by the employee. The "uniform" consists of pants, button-up shirts(long or short sleeved) or polo's, tee-shirts(long or short sleeved with coat, hat or toboggan, all items of which are navy blue or Grey in color and issued by the Fire Commission after July 1, 2012. The fire service badge is to be worn on the left chest. A fire service patch may be added by the individual station upon prior approval of patch and placement through the Fire Department Coordinator. All boots must be black in color and constructed in a way to protect feet and toes from injury of falls. Glossy black dress shoes may be worn during special ceremonies and funerals.

- Uniforms must be kept clean and presentable in appearance at all times. Uniforms that have been purchased after July 1, 2012, which have been directly purchased, issued, and approved by the Fire Commission or Fire Department Coordinator are the only uniforms approved and allowed to be worn during the employee's working hours, and when the employee leaves the station for any reason, i.e., to answer a call, to go out into the community, engage in any public relations, represent the fire department at trainings or any other meetings required by the Fire Commission.
- When performing maintenance on equipment and/or station grounds, when working with water points and hydrants and during the daily workout routine, or carry outs the employee will be allowed to wear the tee-shirt which has been issued and approved. In event of a search or carryout rescue, upon entering the woods the employee may remove his uniform shirt and be allowed to wear the approved tee-shirt; however, upon returning to the Command Post, employees must wear a uniform shirt. In event of a structure or brush fire, employee may wear tee-shirt under turn-out gear. At all other times, employee will wear the uniform provided.
- Shorts may be worn only during the 45 minute workout time. At no other time will shorts be allowed. If leaving for a call the employee's uniform has to be put on before leaving the station.
- Proper daily hygiene is required.
- Facial hair must be groomed to the extent it meets fit testing.
- No jewelry may be worn during working hours other than one wedding band.
- Any employee who does not follow the dress code will be given (1)a verbal warning, (2)a written warning, and the third offense may result in disciplinary action up to, and including, dismissal.

There will be no exceptions to this dress code unless approved by the Avery County Fire Department

Coordinator. Any station wear purchased by either the Fire Commission or the Fire Department prior to July 1, 2012, must be presented to the Fire Department Coordinator for prior approval before it can be worn during any work hours or other events for which the employee is receiving compensation of any kind.

ARTICLE VI. EMPLOYEE BENEFITS

Section 1. Eligibility

All full-time employees of the Commission are eligible for employee benefits as provided for in this Article which are subject to change at the Commission's discretion. Part-time and temporary employees are eligible only for Workers' Compensation.

Section 2. Group Health, Hospitalization Insurance

The Commission provides group health and hospitalization insurance programs for full-time employees after thirty days of employment. Employees may elect to include coverage for qualified dependents. The employee pays for this coverage.

Information concerning cost and benefits shall be available to all employees through the Fire Department Coordinator.

Section 3. Other Optional Group Insurance Plans

The Commission may make other group insurance plans available to employees upon authorization of the Fire Commission.

Section 4. Retirement

The Commission may elect to provide a Retirement Plan for each employee.

Section 5. Social Security

The Commission, to the extent of its lawful authority and power, has extended Social Security benefits for its eligible employees and eligible groups and classes of such employees.

Social Security is Federal Government insurance to provide an employee with income in his senior years. Disability and death benefits are also provided by social security.

The cost for Social Security is paid through an automatic payroll tax. The Commission matches the money that is deducted from the employee's payroll check for payment into the Social Security Trust Fund.

Section 6. Workers' Compensation

All employees of the Commission (full-time, part-time, and temporary) are covered by the North Carolina Workers' Compensation Act and are required to report all injuries arising out of and in the course of employment to their immediate supervisors at the time of the injury in order that appropriate action may be taken at once.

Responsibility for claiming compensation under the Workers' Compensation Act is on the injured employee and the Fire Chief. Such claims must be reported to the Fire Department Coordinator within 48 hours of the injury who will file the claim with the North Carolina Industrial Commission within the next five working days. The Fire Department Coordinator will assist the employee in filing the claim.

Section 7. Unemployment Compensation

Commission employees who are terminated due to a reduction in force or released from Commission service may apply for benefits through the local Employment Security Commission office, where a determination of eligibility will be made.

ARTICLE VII. HOLIDAYS AND LEAVES OF ABSENCE

Section 1. Policy

The policy of the Commission is to provide annual leave, sick leave, and holiday leave to all full-time employees.

Section 2. Holidays

The policy of the Commission is to follow the holiday schedule listed below: Each holiday is an eight hour period.

New Year's Day
Good Friday
Memorial Day
Independence Day
Labor Day

Veterans Day
Thanksgiving Thursday & Friday
Christmas (three days)

When any holiday falls on a Saturday or Sunday, the Fire Department Coordinator will advise of the day to be designated as the holiday.

In order to be eligible for holiday pay, an employee must have worked the day before and the day after the holiday(s), or have been granted approved leave.

Regular holidays which occur during a vacation, sick or other leave period of any employee shall not be considered as vacation, sick, or other leave.

Section 3. Holidays: Compensation When Work is required or regularly Scheduled Off for Shift Personnel

A nonexempt employee required to work a regularly scheduled holiday shall be paid at a rate of 2.0 hours per hour worked. No additional time off shall be given for the holiday. If an Employee is scheduled off on a holiday, he/she shall receive 8 hours holiday pay at his/her normal pay rate as compensation for the holiday.

Section 4. Vacation Leave

Vacation leave shall be used for rest and relaxation, and may be used for medical appointments or sickness when sick leave is exhausted. Any compensatory time earned by the employee should be used prior to using vacation leave.

Section 5. Vacation Leave: Use by Probationary Employees

Employees serving a probationary period following initial employment may accumulate vacation leave but shall not be permitted to take vacation leave during the probationary period without special approval by the Fire Commission. Employees shall be allowed to take accumulated vacation leave after six months of service.

Section 6. Vacation Leave: Accrual Rate

Each full-time employee of the Commission shall accrue annual leave on the following schedule for each completed month (calendar month) of service, pro-rated by the number of hours in the work week:

Years of Service	Number Days Per Year	Earnings per Pay Period
Less than 2 years	11.75	3.61 hours
2 but less than 5 years	13.75	4.23 hours
5 but less than 10years	16.75	5.15 hours
10 but less than 15years	19.75	6.07 hours
15 but less than 20 years	22.75	7.00 hours
20 years or more	25.75	7.92 hours

Section 7. Vacation Leave: Maximum Accumulation

Vacation leave may accumulate with no maximum during the calendar year. At the end of the calendar year, no more than 240 hours of vacation leave may be carried over to the next year. Any excess vacation leave as of the last pay period of each year may be transferred to an employee's sick leave account.

Section 8. Vacation Leave: Manner of Taking

Vacation leave may be taken as earned by the employee with the exception of provisions applying to probationary employees. Vacation leave is subject to the

approval of the Chief and prior submission of request to the Fire Department Coordinator at least two weeks before planned vacation.

Section 9. Vacation Leave: Payment upon Separation

An employee who has successfully completed six months of the probationary period will normally be paid for accumulated vacation leave upon separation not to exceed 240 hours, provided notice is given to the Fire Chief and Fire Department Coordinator at least two weeks in advance of the effective date of resignation. Any employee failing to give the notice required by this section shall forfeit payment for accumulated leave. The notice requirement may be waived when deemed to be in the best interest of the Fire Commission. The Fire Commission is not obligated to pay any employee for accrued vacation if the employee is terminated from employment for just cause. At the time of separation, any vacation leave owed the Commission shall be deducted from the employee's final compensation.

Section 10. Vacation Leave: Payment upon Death

The estate of an employee who dies while employed by the Commission shall be entitled to payment of all the accumulated vacation leave credited to the employee's account not to exceed the maximum established in Section 8 of this Article.

Section 11. Bereavement Leave

An employee may be granted up to three days of leave for grievance time for the death of an immediate family member. If additional time is required to deal with family matters the employee may request use of sick leave and/or accrued vacation to handle the family's affairs prior to, during and/or immediately following the funeral. Approval of the Fire Commission is required.

Section 12. Sick Leave

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

Sick leave may be used when an employee must care for a member of his or her immediate family who is ill or to care for a newborn or newly adopted child, but may not be used to care for healthy children when the regular caregiver is sick.

Sick leave may also be used to supplement Workers' Compensation Disability Leave both during the waiting period before Workers' Compensation benefits begin, and afterward to supplement the remaining salary, except that employees may not exceed their regular salary amount using this provision.

Notification of the desire to take sick leave should be submitted to the Department Chief and Fire Department Coordinator prior to the leave or not later than two hours after the beginning of the scheduled workday. Failure to do so appropriately may result in disciplinary action.

Section 13. Sick Leave: Accrual Rate and Accumulation

Sick leave shall accrue at the rate of 3.69 hours per pay period.

All sick leave accumulated by an employee shall end and terminate without compensation when the employee resigns or is separated from the Commission, except as stated for employees retiring.

Section 14. Sick Leave: Medical Certification

The Fire Department Coordinator and or Department Chief may require a physician's certificate stating the nature of the employee or immediate family member's illness and the employee's capacity to resume duties, for each occasion on which an employee uses sick leave or whenever the Fire Department Coordinator observes a "pattern of absenteeism." The employee may be required to submit to such medical examination or inquiry as the Fire Department Coordinator deems desirable. The Chief shall be responsible for the application of this provision to the end that:

- 1) Employees shall not be on duty when they might endanger their health or the health of other employees; and
- 2) There will be no abuse of leave privileges.

Claiming sick leave under false pretense to obtain a day off with pay shall subject the

employee to disciplinary action.

Section 15. Leave Sharing

Employees may share accrued sick leave with other Commission employees in cases of extended medical illness or accident that requires continued absence from work. An employee may make application for him/herself or for another employee to be considered for the shared leave program. Approval of the Fire Commission is required. An employee may share an unlimited number of sick hours, but must maintain a balance of at least 40 hours. Medical certification may be required. If an employee does not have to use all the hours that are donated, the remaining balance will be credited back, on a pro-rated basis, to those employees who donated leave.

Section 16. Workers' Compensation Leave

An employee absent from duty because of sickness or disability covered by the North Carolina Workers' Compensation Act may elect to use accrued sick leave or vacation during the first waiting period. The employee may also elect to supplement workers' compensation payments after they begin provided that the combination of leave supplement and workers' compensation payments does not exceed normal compensation. An employee on workers' compensation leave will be permitted to continue to be eligible for benefits under the Commission's group insurance plans.

Section 17. Military Leave

Regular employees who are members of an Armed Forces Reserve organization or National Guard shall be granted ten workdays per year for military leave with pay. On rare occasions due to annual training being scheduled on a federal fiscal year basis, an employee may be required to attend two periods of training in one calendar year. For this purpose only, an employee shall be granted an additional ten days of military leave during the same calendar year. Any salary payments which the employee receives from the military shall be deducted from the sum paid by the Commission. The effect will be to maintain the employee's salary at the normal level during this period. If such duty is required beyond these ten workdays, the employee shall be eligible to take accumulated vacation leave or be placed in a leave without pay status, and the

provisions of that leave shall apply. While taking military leave without pay or with partial pay, the employee's leave credits and other benefits shall continue to accrue as if the employee physically remained with the Commission during this period. Employees who are eligible for military leave have all job rights specified by the Vietnam Veterans Readjustment Act, including members of the National Guard or a reserve unit.

Section 18. Reinstatement Following Military Service.

An employee called to extended active duty with the United States military forces, who does not volunteer for service beyond the period for which called, shall be reinstated with full benefits provided the employee:

- 1) Applies for reinstatement within ninety days after the release from military service; and
- 2) Is able to perform the duties of the former position or similar position; or
- 3) Is unable to perform the duties of the former position or a similar position due to disability sustained as a result of military service, but is able to perform the duties of another position in the service of the Commission. In this case the employee shall be employed in such other position as will provide the nearest approximation of the seniority, status, and pay which the employee otherwise would have been provided, if available.

Section 19. Civil Leave

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

ARTICLE VIII. SEPARATION AND REINSTATEMENT

Section 1. Types of Separations

All separations of employees from positions in the service of the Commission shall be designated as one of the following types and shall be accomplished in the manner

indicated: Resignation, reduction in force, disability, voluntary retirement, dismissal, or death.

Section 2. Resignation

An employee may resign by submitting the reasons for resignation and the effective date in writing to the Fire Department Coordinator as far in advance as possible. In all instances, the minimum notice requirement is two weeks. Failure to provide minimum notice shall result in forfeit of payment for accumulated annual leave unless the notice is waived upon approval by the Fire Commission.

Three consecutive days of absence without contacting the Fire Department Coordinator is considered to be a voluntary resignation.

Section 3. Reduction in Force.

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

Section 4. Disability

An employee who cannot perform the required duties because of a physical or mental impairment may be separated for disability. Action may be initiated by the employee or the Commission. In all cases, such action must be accompanied by medical evidence acceptable to the Fire Commission. The Commission may require an examination, at the Commission's expense, performed by a physician of the Commission's choice.

Section 5. Death

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

Section 6. Dismissal

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

Section 7. Reinstatement

An employee who is separated because of reduction in force may be reinstated within one year of the date of separation, upon recommendation of the Fire Department Coordinator and approval of the Fire Commission. An employee who is reinstated in this manner shall be re-credited with his or her previously accrued sick leave.

Section 8. Rehiring

An employee who resigns while in good standing may be rehired after one year of separation of time from the Fire Commission. With the approval of the Fire Commission, and shall be regarded as a new employee, and subject to all of the provisions of rules and regulations of this Chapter and be credited with his or her previously accrued sick leave. However, the employee shall be credited with his or her previously accrued sick leave if he or she is rehired within two years of separation from the Fire Commission and in good standings. Employees that were separated due to a reduction in force shall be given the first opportunity to be rehired in the same or a similar position.

ARTICLE IX. UNSATISFACTORY JOB PERFORMANCE AND DETRIMENTAL PERSONAL CONDUCT

Section 1. Disciplinary Action for Unsatisfactory Job Performance

A regular employee may be placed on disciplinary suspension, demoted, or dismissed for unsatisfactory job performance, if after following the procedure outlined below, the employee's job performance is still deemed to be unsatisfactory. All cases of disciplinary suspension, demotion, or dismissal must be approved by the Fire Commission prior to giving final notice to the employee.

Section 2. Unsatisfactory Job Performance Defined

Unsatisfactory job performance includes any aspects of the employee's job which are not performed as required to meet the standards set by the Chief and Fire Department

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

- 1) Demonstrated inefficiency, negligence, or incompetence in the performance of duties;
- 2) Careless, negligent or improper use of Commission property or equipment;
- 3) Physical or mental incapacity to perform duties;
- 4) Discourteous treatment of the public or other employees;
- 5) Absence without approved leave;
- 6) Repeated improper use of leave privileges;
- 7) Habitual pattern of failure to report for duty at the assigned time and place;
- 8) Insubordination; Unbecoming conduct
- 9) Failure to complete work within time frames established in work plan or work standards; or
- 10) Failure to meet work standards over a period of time.

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

When an employee's job performance is unsatisfactory and /or shows detrimental conduct, as in Article XI subsection 7 or when incidents or inappropriate actions warrant, the Chief should meet with the employee as soon as possible in one or more counseling sessions to discuss specific performance problems. The Chief should note a brief summary of these counseling sessions in the employee's file and send a copy to the Fire Department Coordinator. An employee whose job performance is unsatisfactory over a period of time should normally receive at least two warnings from the Fire Department Coordinator and or Department Chief before the Fire Commission takes disciplinary action resulting in dismissal. One of these warning may be the final written warning. In each case, the Department Chief should record the dates of discussions with the employee, the performance deficiencies discussed, the corrective actions recommended, and the time limits set. If the employee's performance continues to be unsatisfactory, then the Department Chief should use the following disciplinary steps:

- 1) A final written warning from the Fire Department Coordinator serving notice upon

the employee that corrected performance must take place immediately in order to avoid suspension, demotion, or dismissal.

- 2) If performance does not improve, a written recommendation should be sent to the Fire Commission for disciplinary action such as suspension, demotion, or dismissal, who will make the final decision. The Fire Department Coordinator or Fire Commission will issue a letter in conjunction with the pre-disciplinary conference depending on the level of disciplinary action.

Section 4. Disciplinary Action for Detrimental Personal Conduct

With the approval of the Fire Commission, an employee may be placed on disciplinary suspension, demoted, or dismissed without prior warning for causes relating to personal conduct detrimental to Commission service in order to 1) avoid undue disruption of work; 2) to protect the safety of persons or property; or 3) for other serious reasons. When an employee is suspended or dismissed without notice, the employee shall be required to leave the property at once and remain away until further notice. A written summary should be placed in the employee's file within five days.

Section 5. Detrimental Personal Conduct Defined

Detrimental personal conduct includes behavior of such a serious detrimental nature that the functioning of the Commission may be or has been impaired; the safety of persons or property may be or have been threatened; or the laws of the government may be or have been violated. Examples of detrimental personal conduct include, but are not limited to, the following:

- 1) Fraud;
- 2) Commission of a felony or the entry of a plea of nolo contendere thereto;
- 3) Falsification of records for personal profit, to grant special privileges, or to obtain employment;
- 4) Willful misuse or gross negligence in the handling of Commission funds;
- 5) Willful or wanton damage or destruction to property;
- 6) Willful or wanton acts that endanger the lives and property of others;
- 7) Possession of unauthorized firearms or other lethal weapons on the job;

- 8) Brutality in the performance of duties;
- 9) Consuming controlled substances, except prescribed by a physician and consumed in the manner intended by a physician.
- 10) Engaging in incompatible employment or servicing a conflicting interest;
- 11) Request or acceptance of gifts in exchange for favors or influence;
- 12) Conduct unbecoming a public officer or employee;
- 13) Blatant insubordination or conduct for which no reasonable person should expect to receive prior warning; or
- 14) Engaging in political activity prohibited by this chapter.

Section 6. Pre-Disciplinary Conference.

Before any disciplinary action is taken, whether for failure in detrimental personal conduct which does not require immediate dismissal or failure in performance of duties, the Fire Department Coordinator shall provide the employee with a written notice of proposed disciplinary action, which will include the nature of the proposed action, recommended effective date, the reasons for the action, and a date and time for a pre-disciplinary conference. At this conference, the employee may present any response to the proposed disciplinary action. The Fire Commission will consider the employee's response, if any, to the proposed disciplinary action, and will, within three working days following the pre-disciplinary conference, notify the employee in writing of the final decision to take disciplinary action. The notice of the final disciplinary action shall contain a statement of the reasons for the action and the employee's appeal rights.

Section 7. Non-Disciplinary Suspension

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

- 1) Temporarily relieve the employee of all duties and responsibilities and place the employee on paid or unpaid leave for the duration of the suspension, or

- 2) Assign the employee new duties and responsibilities and allow the employee to receive such compensation in keeping with the new duties and responsibilities.

If the employee is reinstated following the suspension such employee shall not lose any benefits to which otherwise the employee would have been entitled had the suspension not occurred. If the employee is terminated following suspension, the employee shall not be eligible for any pay from the date of suspension.

ARTICLE X. GRIEVANCE PROCEDURE AND ADVERSE ACTION APPEAL

Section 1. Policy

It is the policy of the Commission to provide a just and prompt procedure for the presentation, consideration, and disposition of employee grievances. The purpose of this article is to outline the procedure and to assure all employees that a response to their complaints and grievances will be prompt and fair.

Section 2. Grievance Defined

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

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

Section 3. Purposes of the Grievance Procedure

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

- 1) Providing employees with a procedure by which their complaints can be considered promptly, fairly, and without reprisal;
- 2) Encouraging employees to express themselves about the conditions of work which affect them as employees;
- 3) Promoting better understanding of policies, practices, and procedures which

affect employees;

- 4) Increasing employees' confidence that personnel actions taken are in accordance with established, fair, and uniform policies and procedures; and
- 5) Increasing the sense of responsibility exercised by supervisors in dealing with their employees.

Section 4. Procedure

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

Informal Resolution. Prior to the submission of a formal grievance, the employee and Chief should meet to discuss the problem and seek to resolve it informally. This meeting should be requested and held within five working days of the incident or action giving rise to the problem. Ongoing conditions are not subject to this time restriction but a conference should be scheduled and held as quickly as possible.

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

The response from the Chief shall be in writing and signed and dated by the Chief, with copy to the Fire Department Coordinator. In addition, the employee shall sign a copy to acknowledge receipt thereof. The responder at each step shall send copies of the grievance and response to the personnel file and send a Copy to the Fire Department Coordinator.

Step 2. If the grievance is not resolved to the satisfaction of the employee by the Fire Chief, the employee may appeal, in writing, to the Fire Department Coordinator within five calendar days after receipt of the response from Step 1. The Fire Department Coordinator shall respond to the appeal, may meet with the employee to discuss the grievance fully, and will make a decision within ten calendar days.

Step 3 If the grievance is not resolved to the satisfaction of the employee, the employee may appeal, in writing, to the Fire Commission within five calendar days after receipt of the response from Step 1. The Fire Commission shall respond to the appeal, may meet with the employee to discuss the grievance fully, and will make a decision within ten calendar days. The Fire Commission's decision is final.

Section 5. Grievance and Adverse Action Appeal Procedure for Discrimination

When an employee, former employee, or applicant believes that any employment action discriminates illegally (i.e. is based on age, sex, race, color, national origin, religion, creed, political affiliation, or disability) he or she has the right to appeal such action using the grievance procedure outlined in this policy. While such persons are encouraged to use the grievance procedure, they shall have the right to appeal directly to the Fire Commission. An employee or applicant should appeal an alleged act of discrimination within thirty calendar days of the alleged discriminatory action, but may appeal for up to six months following the action.

Section 6. Back Pay Awards

Back pay and benefits may be awarded to reinstated employees in suspension, demotion, and discrimination cases.

Section 7. Employee Representation

In the presentation of any grievance, an employee may be represented by any person of the employee's choice. This representation is at the employee's expenses. The employee may not be represented by the employee's Chief or the Fire Department Coordinator.

ARTICLE XI. PERSONNEL RECORDS AND REPORTS

Section 1. Public Information

Any information as defined by N.C.G.S.153A-98 is public information.

Section 2. Access to Confidential Records

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

- 1) The employee or his/her duly authorized agent may examine all portions of his/her personnel file except letters of reference solicited prior to employment, and information concerning a medical disability, mental or physical, that a prudent physician would not divulge to the patient.
- 2) A licensed physician designated in writing by the employee may examine the employee's medical record.
- 3) A Commission employee having supervisory authority over the employee may examine all material in the employee's personnel file.
- 4) By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.
- 5) An official of an agency of the State or Federal Government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the Fire Commission to be necessary and essential to the pursuit of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee, or for

the purpose of assisting in an investigation of the employee's tax liability. However, the official having custody of the personnel records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.

- 6) An employee may sign a written release to be placed in his/her personnel file that permits the record custodian to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.
- 7) The Fire Department Coordinator and /or Fire Commission may inform any person of the employment, non-employment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a Commission employee, and the reasons for that action. Before releasing that information, the Fire Commission shall determine that the release is essential to maintaining the level and quality of Commission services. The written determination shall be retained in the Fire Commission's office, is a record for public inspection, and shall become a part of the employee's personnel file.

The Fire Commission shall establish procedures for all personnel files containing information other than the public information mentioned above whereby an employee who objects to material, considering it inaccurate or misleading, may seek to have the material removed from the file or may place in the file a statement relating to the material.

Section 3. Personnel Actions

The Fire Department Coordinator will prescribe necessary forms and reports for all personnel actions and will retain records necessary for the proper administration of the personnel system.

Section 4. Records of Former Employees

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

Section 5. Remedies of Employees Objecting to Material in File

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

ARTICLE XII. IMPLEMENTATION OF POLICIES

Section 1. Conflicting Policies Repealed

All previous personnel policies, ordinances, or resolutions are hereby repealed.

Section 2. Separability

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

Section 3. Effective Date

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Bill Beuttell, Chairman

Date