

SMYTH COUNTY
BOARD OF SUPERVISORS



PERSONNEL POLICIES
AND
GRIEVANCE PROCEDURES MANUAL
FOR
ADMINISTRATIVE DIVISION EMPLOYEES

Adopted by
The Smyth County Board of Supervisors
March 28, 2024

IMPORTANT NOTICE

AT-WILL STATEMENT

THIS MANUAL IS NOT, AND SHALL NOT BE CONSTRUED AS, AN EXPLICIT OR IMPLIED CONTRACT OF EMPLOYMENT AND IT SHALL NOT MODIFY THE EXISTING AT-WILL STATUS OF ANY COUNTY EMPLOYEE.

THE TERM "AT-WILL" MEANS THAT EITHER SMYTH COUNTY OR ITS EMPLOYEES CAN TERMINATE THE EMPLOYMENT RELATIONSHIP AT ANY TIME. THIS MANUAL SHALL NOT CREATE ANY DUE PROCESS REQUIREMENT IN EXCESS OF FEDERAL OR STATE CONSTITUTIONAL OR STATUTORY REQUIREMENTS.

THIS MANUAL SUPERSEDES ALL PRIOR POLICIES, PROCEDURES AND REPRESENTATIONS, ORAL OR WRITTEN, REGARDING AN EMPLOYEE'S EMPLOYMENT STATUS OR DURATION OF EMPLOYMENT, EXCEPT THOSE APPROVED BY THE BOARD OF SUPERVISORS FOR A SPECIFIC EMPLOYEE, AS INDICATED BY A WRITTEN EMPLOYMENT AGREEMENT SIGNED BY THE CHAIRMAN OF THE BOARD OF SUPERVISORS. IN THE EVENT OF A CONTRADICTION BETWEEN THIS MANUAL AND THE REPRESENTATIONS, POLICIES OR PROCEDURES APPROVED BY THE BOARD OF SUPERVISORS, THE TERMS OF THIS MANUAL WILL GOVERN.

SMYTH COUNTY RETAINS THE RIGHT TO AMEND, CANCEL OR OTHERWISE CHANGE THESE POLICIES AT ANY TIME WITH THE APPROVAL OF THE BOARD OF SUPERVISORS, WITH OR WITHOUT NOTICE.

TABLE OF CONTENTS

INTRODUCTION	- 9 -
1.1 ESTABLISHMENT AND PURPOSE OF RULES; APPLICABILITY	- 9 -
1.2 PERSONNEL ORGANIZATION.....	- 9 -
1.3 EQUAL EMPLOYMENT OPPORTUNITY STATEMENT	- 9 -
1.4 PERSONNEL FILES	- 10 -
1.5 SEVERABILITY.....	- 10 -
APPLICATIONS FOR EMPLOYMENT	- 11 -
2.1 RECRUITMENT AND SELECTION.....	- 11 -
2.2 TYPES OF APPOINTMENTS	- 12 -
2.3 NEPOTISM	- 13 -
2.4 RESIDENCY REQUIREMENT.....	- 13 -
2.5 SECONDARY EMPLOYMENT.....	- 13 -
POSITION CLASSIFICATION PLAN	- 15 -
3.1 CLASSIFICATION AND PAY PLAN	- 15 -
3.2 ASSIGNMENT OF POSITIONS.....	- 15 -
3.3 MAINTENANCE OF PLAN	- 15 -
3.4 SALARY ADJUSTMENT FOR RECLASSIFICATION	- 15 -
3.5 FULL AND PART-TIME POSITIONS.....	- 16 -
EMPLOYEE PAY PLAN	- 17 -
4.1 POLICY	- 17 -
4.2 PROMOTIONS	- 17 -
4.3 TRANSFER, DEMOTION	- 17 -
4.4 SALARY ADJUSTMENTS	- 17 -
4.5 PAY RATES	- 17 -
4.6 PAY PERIODS	- 17 -
4.7 PAYROLL PROCESSING.....	- 18 -
4.8 PERSONNEL DATA CHANGES	- 18 -
4.9 DEDUCTIONS AND GARNISHMENTS	- 18 -
4.10 TIME REPORTING	- 18 -
4.11 SEPARATION OR FINAL PAY	- 19 -
FLSA OVERTIME AND COMPENSATORY TIME	- 20 -
5.1 COUNTY POLICY	- 20 -
5.2 CATEGORIES OF JOBS FOR FLSA COMPLIANCE	- 21 -
5.3 RECORD KEEPING	- 21 -
5.4 QUESTIONS ON APPLICABILITY.....	- 22 -
BENEFITS AND LEAVE	- 23 -
6.1 TYPES OF EMPLOYMENT BENEFITS	- 23 -
6.2 AMENDMENTS TO BENEFITS	- 23 -

6.3	ORIENTATION INFORMATION PACKET	- 23 -
6.4	HEALTH INSURANCE	- 23 -
6.5	RETIREMENT PLAN.....	- 24 -
6.6	LIFE INSURANCE	- 24 -
6.7	DEFERRED COMPENSATION	- 24 -
6.8	LEAVE DEFINED.....	- 24 -
6.9	TYPES OF LEAVE	- 24 -
6.10	BENEFITS PROGRAMS UPON TERMINATION, RESIGNATION, OR RETIREMENT	- 34 -
6.11	HYBRID PLAN EMPLOYEES	- 34 -
EMPLOYEE CONDUCT		- 35 -
7.1	CONDUCT STANDARDS	- 35 -
7.2	REASONS FOR DISCIPLINARY ACTION.....	- 35 -
7.3	OBLIGATION TO REPORT.....	- 36 -
7.4	COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS	- 36 -
7.5	LIABILITY	- 36 -
7.6	CONFLICT OF INTERESTS AND PUBLIC PROCUREMENT.....	- 37 -
7.7	ADMINISTRATIVE INVESTIGATIONS.....	- 38 -
7.8	RELATIONSHIP BETWEEN OFFICERS, EMPLOYEES, AND BOARD OF SUPERVISORS.....	- 38 -
7.9	ILLEGAL HARASSMENT.....	- 38 -
7.10	WORKPLACE VIOLENCE.....	- 40 -
7.11	POLITICAL ACTIVITY	- 40 -
7.12	TRAVEL POLICY	- 41 -
7.13	USE OF COUNTY EQUIPMENT.....	- 41 -
7.14	CONFIDENTIALITY OF RECORDS.....	- 43 -
7.15	DRESS CODE.....	- 43 -
7.16	TOBACCO USE ON COUNTY PROPERTY.....	- 43 -
7.17	BREAK PERIODS.....	- 44 -
WORKPLACE SAFETY.....		- 44 -
8.1	SAFETY PROGRAM	- 44 -
8.2	SAFE OPERATION OF COUNTY VEHICLES	- 44 -
8.3	UNIFORMS, PROTECTIVE EQUIPMENT AND SAFETY EQUIPMENT	- 45 -
ALCOHOL AND DRUG FREE WORKPLACE POLICY.....		- 46 -
9.1	PURPOSE	- 46 -
9.2	RULES OF CONDUCT.....	- 46 -
9.3	APPLICABILITY	- 47 -
9.4	DESIGNATED EMPLOYER REPRESENTATIVE.	- 47 -
9.5	DRUG AND ALCOHOL TESTING.....	- 47 -
9.6	TESTING FACILITY AND PROCEDURES	- 49 -
9.7	EXPENSES	- 50 -
9.8	PRIVACY RIGHTS.....	- 50 -
9.9	DISCIPLINE AND CORRECTIVE ACTION	- 50 -
9.10	EXCLUSIONS	- 50 -
9.11	INTERPRETATION	- 51 -

DISCIPLINE AND SEPARATION.....	- 52 -
10.1 POLICY	- 52 -
10.2 TYPES OF DISCIPLINARY ACTIONS	- 52 -
10.3 DISCIPLINARY PROCEDURE:.....	- 53 -
10.4 SEPARATION FROM EMPLOYMENT:.....	- 54 -
GRIEVANCE PROCEDURE.....	- 55 -
11.1 STATEMENT OF PURPOSE	- 55 -
11.2 COVERAGE OF PERSONNEL	- 55 -
11.3 HOW TO FILE A GRIEVANCE	- 57 -
11.4 HEARINGS.....	- 59 -
AMENDMENTS.....	- 62 -

INTRODUCTION

1.1 Establishment and Purpose of Rules; Applicability

The Smyth County Board of Supervisors hereby establishes a personnel system for the County's administrative officers and employees, based on merit and abilities ("Personnel System"). The County's Personnel System shall consist of the policies and procedures set forth within this Personnel Manual and Grievance Procedures ("Manual") including, without limitation: rules and regulations that provide for general administration of personnel matters, a classification plan for employees, a uniform pay plan, and a procedure for resolution of employee grievances.

The rules, regulations, policies and procedures set forth within this manual are established to ensure that all officers and employees of Smyth County will have a clear and uniform set of guidelines designed to promote the efficient performance of their duties, and to promote a healthy and safe workplace. Copies of the Personnel Manual will be furnished to every employee and a copy will be available in the County Administrator's office and on the Smyth County employee website.

The rules, regulations, policies and procedures herein established shall apply to all individuals employed in the administrative service of the County. This manual shall not apply to the Department of Social Services and School Board employees or employees specifically exempted by action of the Board of Supervisors. It shall not apply to Constitutional Officers or other entities in which the County acts as a fiscal agent except as set out and agreed in a separate Memorandum of Understanding.

1.2 Personnel Organization

The County Administrator is designated as the County's Chief Administrative and Personnel Officer. The Chief Personnel Officer has authority to appoint all officers and employees, including deputies and assistants, in the administrative service of the County. The County Administrator is responsible for the personnel program for Smyth County, subject to the Board of Supervisors' supervision. The County Administrator may delegate to the Human Resource Director or other officers and employees of the County such duties and responsibilities as determined necessary for the efficient operation of the Departments of the County.

1.3 Equal Employment Opportunity Statement

It is the policy of the Smyth County Board of Supervisors to provide equal opportunity in employment and career development. Employment decisions shall be based on merit, qualifications, and competence.

The County officials charged with administration of the rules, regulations, policies and procedures set forth within this Manual will apply and construe all such provisions without regard to an applicant's or employee's race, color, religion, gender, gender expression, age, national origin,

marital status, sexual orientation, political affiliation, military status, disability or genetic information, or other factors unrelated to a person's occupational qualifications.

It is the policy of Smyth County to comply with all federal and state laws concerning the employment of persons with disabilities and to act in accordance with regulations and guidance issued by the Equal Employment Opportunity Commission (EEOC). Furthermore, it is the County's policy not to discriminate against qualified individuals with disabilities in regard to application procedures, hiring, advancement, discharge, compensation, training or other terms, conditions and privileges of employment.

1.4 Personnel Files

The Human Resource Office shall maintain the County personnel files for all Administrative Division employees. Personnel files are the property of the County and the information they contain shall not be disclosed or disseminated except as required by law, or with the consent of the employee who is the subject of a personnel file. Only officials and representatives of the County who have a legitimate reason to review information in a file are allowed to do so. Employees are required to give adequate notice to their Department Heads of their desire to be released from work to review their personnel file and make an appointment with the County Administrator's office to review the personnel file in the presence of the County Administrator, County Attorney, or Human Resources Director. Upon request, any employee shall be provided with copies of any personnel record(s) of which the employee is the subject.

1.5 Severability

If any section, article or other part of this manual is found to be invalid by a court of competent jurisdiction, it shall not affect the validity of the balance of the rules and regulations.

APPLICATIONS FOR EMPLOYMENT

2.1 Recruitment and Selection

(a) Recruitment: A standard procedure for conducting competitive recruitment and selection of employees to fill vacant positions, and for receiving applications for vacant positions shall be established by the County Administrator and administered by the Human Resource Director. A notice of position vacancy shall be prepared by the Human Resource Director for all open positions within the Administrative Division. This notice shall contain the position description, the salary range, and the closing date for the receipt of applications. Any additional information required for a complete application shall be specified in the posting. Each vacancy within the County will be advertised at least one time unless it is determined by the County Administrator that a sufficient number of qualified applicants from which to select are currently on file. Advertisements for positions shall be through a variety of resources, including newspaper classified ads, County website, Virginia Employment Commission (VEC) website, and other available resources. Applications are available at the County Administrator's Office, and online on the County's website. Completed applications must be received by the deadline advertised in order to meet the requirements of the selection process, and can be submitted by U S mail, Email, fax, through the VEC office or in-person. A position may be posted internally if the County Administrator deems there are more than one viable candidate eligible for promotion to a vacancy. If the County Administrator believes an employee of the County is qualified for a promotion to a vacancy, promotion may be made internally without advertisement or interview process. All qualified employees are encouraged to apply for or express interest in a promotion.

(b) Applications: The County relies on the completeness and accuracy of information contained in the employment application, as well as the accuracy of other data presented during the selection process. All employment information must be current, accurate and complete. Any intentional misrepresentations, falsifications, or material omissions on the County application will result in the County's exclusion of the individual from further consideration for employment or dismissal from employment if hired. The Human Resource Director along with the Department Head shall review all submitted applications and determine those most qualified to interview for the relevant position. Prior to the interviewing process, the Human Resource Director with the Department Head shall determine reasonable interview questions to pose to each candidate in order to achieve consistency in the interview process. Questions will be based only on the information on the employment application and related to the position. In determining qualifications, the County may use but is not limited to: pre- and post-employment processes; evaluation of training and experience; written and skills tests; driving record; reference checks; background check including criminal background checks and drug testing for all employees.

If a position has been previously posted, but no applicant was chosen due to the decision that no applicant was qualified or the responsibilities of the position have been changed, the vacancy may be re-posted.

If another opening for the same position becomes available during the application and selection process, a second candidate may be chosen from the application pool for interviews for the additional position.

At the discretion of the County Administrator, temporary/full time and temporary/part time Administrative Division positions may be filled without posting the position.

(c) Interview and Selection: After the Human Resource Director and department representatives have reviewed all submitted applications; qualified candidates will be selected for interviews. Prior to the interview, a reasonable number of questions to pose to each candidate shall be determined to offer consistency to the interview process. Interviews are not limited to these pre-determined questions. Only questions related to the positions or the candidate's application will be asked.

Upon completed interviews, full consideration will be given to the group of selected candidates, and the Department Head and Human Resource Director shall make a recommendation for selection to the County Administrator. In all cases, any offer of employment and any discussion of beginning salary, benefits and starting date must be approved in advance by the County Administrator.

(d) Continuing Obligation to Report: An individual who is charged with or convicted of a crime, subsequent to the initial background check or during the course of employment, is required to immediately report such information to the Department Head. Failure to report may subject the employee to disciplinary action, up to and including termination. The County may require an employee to provide current criminal history information where the County has reason to believe that a criminal conviction has occurred but has not been reported as required under this provision.

2.2 Types of Appointments

(a) Regular Employment: Regular employment is any position other than a temporary or emergency appointment. Regular employment may be either full- or part-time job position. Regular employment to positions shall only be made when a vacancy in an approved position exists. Every employee shall be subject to a six (6) month probationary period of employment. The probationary period shall be served by both new and promoted employees and shall be utilized for closely observing the employees work and for securing the most effective adjustment of a new employee to the position. When it is deemed to be in the best interest of the County, the probationary period may be extended, up to a maximum of ninety (90) days. The employee continues to be an at-will employee during and upon completion of the probationary period. Completion of the probationary period does not modify or change the at-will status of any employee.

(b) Temporary Employment: Temporary employment shall be for a specific term not to exceed six (6) months in any one year, unless for a Board of Equalization assignment. A Board of Equalization temporary assignment shall be for a term not to exceed the term served by the members of the Board of Equalization. A temporary assignment may be either full- or part-time job position.

(c) Emergency Employment: An emergency employment is temporary employment of an employee that becomes necessary because an emergency exists creating a need for additional personnel in order to prevent stoppage of public service or inconvenience to the public. Emergency employment may be made by a Department Head for a specific term not exceeding thirty (30) days. The need for an emergency position shall be reported immediately to the County Administrator.

2.3 Nepotism

The employment of a Board member or anyone in the immediate family of a Board member or County Administrator is prohibited. Nothing herein shall affect a current employee should a member of the immediate family be elected to the Board of Supervisors, unless continued employment is prohibited by the Virginia State and Local Government Conflict of Interests Act.

No individual may be or remain employed in a position having supervisory capacity over another individual who is a member of his/her immediate family. The immediate family shall be defined to include the following relationships: husband, wife, parents, step-parents, grandparents, step-grandparents, child, step-child, grandchild, step-grandchild, brother, sister, step-siblings, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, niece or nephew.

In addition to the foregoing, no employee shall be employed in any capacity, when such employment is prohibited or precluded by any provision of the State and Local Government Conflict of Interests Act.

2.4 Residency Requirement

Residency requirements are established for the following employee positions: County Administrator, Assistant County Administrator, County Attorney, County Engineer, and the Department Heads for the following departments: Animal Control, E911, Economic Development, Finance, Solid Waste, Maintenance, Water and Sewer and Zoning. These employees must reside in Smyth County or reside within the Towns of Chilhowie, Marion or Saltville within six (6) months of accepting employment and must continue residence for the duration of employment.

2.5 Secondary Employment

No full-time employee shall engage in any other employment or activity during hours when such employee is scheduled to perform work for the County. Additionally, no employee shall engage in any off-duty employment, business or profession, to an extent that adversely affects, or is likely to adversely affect, the usefulness as an employee of the County. An employee wishing to engage in employment activity, or a business or profession, secondary to primary position with the County shall submit a written request to the Department Head in advance of commencing such employment or activity. The request shall be submitted by the Department Head, along with a recommendation, for the County Administrator's consideration. If approval is granted by the

County Administrator, any approval may be rescinded at any time. No County vehicles, equipment or materials may be used by any County employee for or in connection with any secondary employment, business or profession.

POSITION CLASSIFICATION PLAN

3.1 Classification and Pay Plan

A classification and pay plan have been established and is maintained by the County Administrator and includes all full-time classes of positions in the Administrative Division. Periodic amendments suggested by the County Administrator and approved by the Board of Supervisors may be made to maintain class accuracy and uniform pay provisions.

3.2 Assignment of Positions

A written position description shall be established for all full time and part-time Administrative Division positions. Each approved position shall be classified by the County Administrator and allocated within the Classification Plan according to the appropriate class title, general definition of the work, and the required qualifications, knowledge, skills and abilities. New positions will be allocated to the existing classes or to new classes of position in the County service, subject to review and approval by the Board of Supervisors.

Position descriptions are intended to serve as guidance and reference documents with respect to the scope, responsibilities, and authority of Administrative Division positions. They are not intended, and should not be interpreted to be binding or limiting with respect to a position, nor shall qualifications set forth for a position be considered absolutely essential or required in all instances with respect to filling vacancies in a position. The County Administrator and the Human Resource Director reserves the right to fill vacancies in positions by hiring persons appearing the best suited for such positions, all factors being considered, regardless of whether that person meets all stated qualifications within a position description.

Position descriptions may be amended or modified from time to time upon recommendation of the County Administrator and approval of the Personnel Committee and the Board of Supervisors.

Each approved position shall be assigned a salary or rate of pay consistent with the County's established pay plan. Positions which are sufficiently alike in duties and responsibilities will be assigned the same pay scales, in order that the County shall have a uniform pay plan.

3.3 Maintenance of Plan

Department Heads shall be responsible for bringing to the attention of the County Administrator any material changes in the nature of duties, responsibilities, working conditions, or other factors affecting the classification of any position. Following the receipt of such information, the County Administrator shall study the information presented, and shall determine if the written job description and classification of the position should be changed.

3.4 Salary Adjustment for Reclassification

Reclassification shall not change the employee's anniversary date.

3.5 Full and Part-Time Positions

(a) Each job position shall be established as a full-time or part-time position.

(b) No employee in a part-time position shall be allowed to work more than 28 hours per week following the rules of the Affordable Care Act without prior authorization by the County Administrator.

EMPLOYEE PAY PLAN

4.1 Policy

The pay of all employees is established by the pay plan for the class of position in which they are employed. The County Administrator shall be responsible for the development of a uniform and equitable pay plan for all positions within the Administrative Division. In establishing and adjusting the pay plan, consideration shall be given to prevailing rates for comparable work in other public employment and private business, the current cost of living and the County's financial condition and policy.

4.2 Promotions

When an employee is promoted to a position assigned a higher pay grade, the salary shall be increased at least to the minimum of the higher pay grade. Promotional pay increases may be delayed for a period not to exceed the applicable probationary period, until the County Administrator is satisfied that the employee can satisfactorily perform the job to which promoted.

4.3 Transfer, Demotion

The pay of an employee transferred to a position assigned to the same pay grade shall remain unchanged. The pay of an employee demoted to a position assigned a lower pay grade shall be reduced to a step within the lower pay grade if the demotion or transfer is for disciplinary reasons. In other cases, it may be reduced at the discretion of the County Administrator.

4.4 Salary Adjustments

Based upon the general financial condition of the County, the County Administrator may recommend changes in the pay plan, individual salary increases, or across the board increase for all employees to the Board of Supervisors. Personnel records, performance, and length of service shall be considered in making recommendations for individual salary increases.

4.5 Pay Rates

Salaries and rates of pay established are gross and total compensation for full-time service in the various classifications. When applicable, full time hourly rates are determined by employee's annual salary divided by annual available regular work hours of 2,080 hours. When employment is on a part-time basis, a salary or other rate of pay shall be established by the County Administrator, but in no case shall the hourly rate of pay be less than minimum wage.

4.6 Pay Periods

Pay periods for all full-time salaried employees within the Administrative Division shall begin the first calendar day through the last day of each month. Compensation for the pay period will generally be rendered on the last working day of the current month, excluding weekends and County recognized holidays. The date compensation is rendered may be changed at the discretion of the Board of Supervisors. The County makes no warranty with respect to the exact date on which

compensation will be rendered. All compensation, including compensation due to termination of employment, shall be rendered according to the provisions of this section. Under unusual or necessitating circumstances the County reserves the right to deviate from the provisions of this section.

4.7 Payroll Processing

The Human Resource Department is the responsible administrative unit for the processing of payroll for all Administrative Division employees. The payroll processing policy shall also be applicable to employees of non-Administrative Division Offices, departments, agencies, and organizations whose payroll processing functions are administered by the County.

4.8 Personnel Data Changes

It is the responsibility of each employee to promptly notify the Human Resource Office of any changes in personal information maintained within the personnel file, including address, telephone numbers, dependent information, changes in marital status, educational accomplishments and emergency contact information.

4.9 Deductions and Garnishments

Established deductions are authorized from an employee's gross pay to cover Federal and State income and payroll taxes, retirement contributions, insurance, and any other deductions approved by the Board of Supervisors, authorized by federal or state law or court order, or specifically authorized by an employee in writing.

Garnishments are legal permission obtained by creditors to collect part of an employee's pay from the County and represent a Court order to withhold and pay to the Court a specific amount of an employee's earnings. Written notification of a garnishment will be sent to employees and a copy shall be placed in the employee's personnel file.

4.10 Time Reporting

Accurately reporting time worked is the responsibility of every employee. It is the responsibility of each individual employed in a Department Head position to take reasonable steps necessary to review and verify the accuracy of the time sheets of employees under their supervision.

Time sheets are provided by the County for use by employees in reporting time worked, in order to meet federal and state accounting and record keeping requirements and as a basis for calculating pay and benefits. Tampering, altering, or falsifying time sheets, recording time on another's time sheet, or unauthorized alteration of a time sheet after it has been submitted and approved, may result in disciplinary action, up to and including dismissal. Any compensatory time approved by an employee's Department Head and utilized during a work period must be shown on the employee's time sheet and be initialed by the employee's Department Head.

4.11 Separation or Final Pay

At the time of separation or termination of employment, employees will be paid on the regular pay day following the separation or termination for all pay due for time worked and any accrued annual leave, holiday leave, and FLSA compensation time.

If a departing employee owes any amount to the County for unearned leave, group insurance premiums, unreturned County property or equipment, or any other indebtedness to the County, the payroll clerk shall not issue final pay until the extent of any indebtedness to the County has been determined and shall deduct such indebtedness from the final pay.

FLSA OVERTIME AND COMPENSATORY TIME

5.1 County Policy

It is the policy of the County to comply with the requirements of the Fair Labor Standards Act (“FLSA”).

Overtime work may only be authorized by Department Heads for non-exempt employees, as necessary to cover County work and service needs during emergencies, inclement weather conditions, and periods of unusual workloads. Approval must be given by the Department Head prior to commencement of the work being performed. No employee shall work more than the number of hours scheduled on any working day, except with the advance approval of the Department Head. No Department Head shall allow an employee to work outside the hours of the assigned work schedule, except in accordance with this paragraph.

Non-exempt employees who work overtime shall receive FLSA compensatory time off at the rate of one and one-half hours (1 ½) for each hour worked. The maximum accrual of FLSA compensatory time shall be 240 hours.

It is the policy of Smyth County that FLSA overtime and compensatory time shall be calculated and accrued on the basis of hours worked in excess of forty (40) hours per seven (7) day work period. The County’s standard seven (7) day work period for employees in the Administrative Division begins on Sunday each week.

Days on which an employee performs no work for the County, such as holidays and vacation days (“non-productive time”) shall not be counted as hours worked for purposes of calculation and pay of overtime.

Compensatory time pay is only required when the total number of hours actually worked by a non-exempt employee during the 7-day work period exceeds 40 hours. Employees shall not receive overtime pay (compensatory time) for hours worked on Saturdays or Sundays; for hours worked in excess of 8 on a given day; or for holidays (except as otherwise specifically set forth within “Holiday Leave”) unless the total number of hours worked in the seven-day period exceeds 40 hours.

Department Heads shall take all necessary actions to allow employees to use their accrued FLSA compensatory time, including sending the employee home. Department Heads are responsible for ensuring that a non-exempt employee under their supervision does not accrue more than 160 hours of FLSA overtime, which equals 240 hours of FLSA compensatory time. Department Heads are responsible to ensure that assignments are distributed equitably so that unnecessary and unauthorized overtime is reduced when possible. FLSA compensatory time exceeding 240 hours shall be paid out to the employee in the next pay period to reduce the hours to under the 240-hour limit.

An employee who refuses to work during scheduled overtime, or who works overtime without prior authorization from the Department Head, may be subject to disciplinary action, up to and including, termination of employment.

Employees in positions classified as “exempt” from FLSA overtime requirements shall not be eligible to receive FLSA compensatory time.

5.2 Categories of Jobs for FLSA Compliance

Under the FLSA there are two (2) basic categories of jobs: Exempt and Non-exempt. Classification of a position as exempt or non-exempt is determined in accordance with the FLSA and implementing federal regulations, based on salary basis, job duties, or other applicable FLSA requirements.

The following job classifications have been classified as exempt from overtime provisions of the FLSA: County Administrator, Assistant County Administrator, County Attorney; County Engineer, and Department Heads of the following departments: Building and Grounds, Economic Development; Finance; Human Resources; Water and Sewer; Zoning; E911; Solid Waste, Information Systems, Maintenance. In the event the County Administrator or Director of Human Resources believes that, due to a change in the law or of the salary/ duties of any of these positions, the position may no longer be exempt, a review of the position shall be conducted, in consultation with the County Attorney.

The written job description for each position shall state whether the position is “exempt” or “non-exempt” from the overtime pay requirements of the FLSA. The determination of whether or not a particular job is exempt from the overtime pay requirements of the FLSA shall be determined by the County Administrator in consultation with the Human Resources Director and the County Attorney.

5.3 Record Keeping

Each Department Head shall ensure that a monthly time and attendance record of regular and approved overtime hours worked, of information relevant to calculation of employees’ regular rates of pay for FLSA purposes, and of the use of FLSA compensatory time, accumulated sick leave, annual leave, holidays and holiday time, leave without pay, and other categories of leave are kept for each employee.

The Director of Human Resources and the County’s payroll clerk shall coordinate their record-keeping, to ensure that, at all times, an employee’s regular rate of pay is up-to-date, and that the “regular rate of pay,” for purposes of calculating the amount of overtime due to an employee, is properly calculated in accordance with FLSA requirements.

5.4 Questions on Applicability

All questions about the requirements of the FLSA as they apply to an employee's circumstances should be directed by an employee to the Department Head or Human Resource Director. When necessary, the Department Head and Human Resource Director will consult with the County Administrator and County Attorney, prior to making a response.

BENEFITS AND LEAVE

6.1 Types of Employment Benefits

Presently, the County offers to full-time employees the following employment benefits:

- (a) Health Insurance
- (b) Retirement Plan
- (c) Life Insurance
- (d) Paid Holidays
- (e) Paid Leave
- (f) Unpaid Leave

6.2 Amendments to Benefits

Current benefits may be amended, modified, added, or eliminated by the Board of Supervisors at any time. The types of benefits and benefits packages, level of employer versus employee contributions, and conditions and limitations on the scope, extent and duration of such benefits are dictated by decisions of the Board of Supervisors and the policies of participating benefits providers. Information on these employment benefits may be obtained through the Human Resource Office.

6.3 Orientation Information Packet

Each new employee shall receive an orientation information packet. This information packet shall contain a current copy of this policy, or information concerning the location of an on-line version on the County's website as well as other relevant information and forms related to the County's benefit programs.

6.4 Health Insurance

The County offers a group health insurance plan for all full-time employees, their spouses and dependents. The County and the employee share proportionally in the cost of the monthly premiums. The employee's share of the insurance premium under the County-sponsored health care plan may be designated on a pre-tax basis (IRS Cafeteria Section 125 Plan). Details of the health insurance plan as well as the Cafeteria 125 Plan may be obtained from the Human Resources office.

Enrollment in the plan is limited to initial employment, qualifying events, or annual open enrollment period.

The County shall continue to share proportionally in the cost of the healthcare plan for any employee who is granted leave without pay in accordance with the rules stated under section 6.9(f).

6.5 Retirement Plan

The County is a member of the Virginia Retirement System (VRS) for political subdivisions. As such, each employee must contribute a state mandated portion of their monthly salary to VRS. The County contributes an additional amount as determined by VRS on each employee's monthly salary.

6.6 Life Insurance

As a VRS participating political subdivision, the County provides group life insurance to all full-time salaried employees based on annual salary. Group life insurance includes a natural death benefit, an accidental death benefit, accidental dismemberment benefit, as well as other additional benefits. Information related to life insurance and beneficiary forms are available from the Human Resources Office.

Optional Life insurance is available to all full-time employees on a voluntary basis and the cost is paid by the employee.

6.7 Deferred Compensation

The County participates in a voluntary Nationwide 457(b) deferred compensation plan. This plan allows employees to direct pre-tax dollars into investment accounts of their choosing. All contributions are paid by the employee. Additional information is available from the Human Resources Office.

6.8 Leave Defined

Leave is any authorized absence during regularly scheduled work hours that has been approved by proper authority. Leave may be authorized with or without pay. An employee who is absent without authorization during hours they are scheduled to work shall be subject to disciplinary action, up to and including termination of employment.

6.9 Types of Leave

(a) Holiday Leave: The Board of Supervisors at the beginning of each calendar year shall approve designated paid holidays to be observed. These generally are those holidays recognized by the state and federal government and any additional days as may be approved as holidays by action of the Board of Supervisors. If a holiday falls on Sunday, the following Monday will be observed as a holiday. Holidays that fall on a Saturday will be observed on the preceding Friday. A holiday falling during a paid leave period shall not be counted in computing leave charged to any regular employee. If a regular employee is absent on a holiday for which they are scheduled to work, time shall be deducted accordingly from either sick or annual leave or leave without pay. An employee on leave without pay shall receive no holiday pay.

When a full-time non-exempt employee is required to work on a holiday, holiday time in the form of time off will be credited to the employee on an hour-for-hour basis for hours worked at the regular rate of pay. Accrued holiday time shall be used by the employee within 12 months from the holiday worked. Holiday time must be used before any accrued annual leave is taken.

Upon separation, under no circumstances may accrued annual leave, compensatory time or holiday time be used to extend the departure date of an employee. Pay for appropriate leave balances to eligible employees shall be made on a lump sum basis. When the effective date immediately precedes a holiday, the employee shall not be paid for the holiday. In all cases, the Director of Human Resources shall determine the official separation date.

(b) Annual Leave: Each full-time employee, with the exception of 24-hour shift public safety employees, shall accrue paid annual leave for each completed year of service as follows:

<u>Years of Service</u>	<u>Leave Earned per Month</u>
0 – 5 years	8 hours earned (12 days annually)
6 – 15 years	10 hours earned (15 days annually)
16 – 21 years	12 hours earned (18 days annually)
22+ years	14 hours earned (21 days annually)

An employee shall be credited with the earned annual leave on a monthly accrual basis. Any unused balance of annual leave remaining at the end of the employment year shall expire, except as follows: the employee may carry up to the total amount of annual leave accrued in a 12-month period, based on the employee’s years of service, into the next employment year. Upon separation, an employee shall be paid for the unused portion of accrued annual leave.

Below is a summary of the amount of time an employee is allowed to roll-over from one anniversary year to the next:

<u>Years of Service</u>	<u>Leave Allowed to Roll-over</u>
0 – 5 years	12 days (96 hours)
6 – 15 years	15 days (120 hours)
16 – 21 years	18 days (144 hours)
22+ years	21 days (168 hours)

(c) Sick Leave: All employees will be credited with one day (8 hours) of paid sick leave for each month of continuous service, earned at the completion of the month, with a maximum accumulation of one hundred and twenty (120) days or 960 hours. Newly-hired full-time employees beginning their first month of employment on or before the fifteenth calendar day of any month shall accrue eight (8) hours of Sick Leave upon completion of the first calendar month of employment. Sick leave may be utilized by an employee in half-hour increments.

Sick leave shall be used and approved only for the following;

- i. An illness, injury or medical procedure or recuperative period, including birth of a child, incapacitating the employee to perform essential duties, or leave utilized by a parent to care for a newborn child
- ii. An appointment for medical, dental, or optical diagnosis or treatment when an appointment cannot reasonably be scheduled during non-work hours
- iii. Serious illness or death in the immediate family. The "immediate family" includes the employee's spouse, children, step-children, parents, grandparents, siblings, *(including step or half siblings)* mother-in-law, father-in-law, sister-in-law, brother-in-law, son-in-law or daughter-in-law, and with permission of the County Administrator, a member of the household of the employee. Leave due to the death of a member of the immediate family shall be charged first to available bereavement leave, then to sick leave. Leave due to death of others than those listed may be granted, but shall be charged first to available annual leave or leave without pay
- iv. Any other circumstance for which FMLA leave is required to be provided
- v. An exposure to a contagious disease such that presence on duty would jeopardize the health of fellow employees or the public
- vi. Absence due to work-related illness or injury, for which a worker's compensation claim is approved
- vii. Other health-related extenuating circumstances, upon approval of the Board of Supervisors, following written request filed through the County Administrator

All medical information obtained shall be maintained in a confidential health information file located within the Human Resource Office, to which access will be restricted in accordance with applicable laws.

Sick leave accrued but not used shall be paid on separation of employment at the rate of two dollars (\$2.00) per sick leave hour accrued, unless the employee has been terminated due to a conviction of felony or misdemeanor of moral turpitude. Upon separation of employment, **accrued sick leave shall not be used to extend the separation date.**

Where FMLA leave is taken, the employee shall be required to utilize accrued sick leave, and then all other paid leave balances, until such paid leave is exhausted; the use of sick leave and other paid leave shall run concurrently with the FMLA Leave.

Employees who are absent from duty and are entitled to sick leave will notify their Department Head within one (1) hour of their usual reporting time, or as soon as reasonably possible in emergency or other circumstances in which the employee is incapacitated or is otherwise unable to communicate with their Department Head. Sick leave for three consecutive days shall require a physician's certification. An employee on extended sick leave that does not work any in the pay

period will not earn paid sick leave hours for the period. The fraudulent use of sick leave by an employee may result in disciplinary action, up to and including termination of employment.

Leave Sharing Policy: Leave sharing is a means by which employees may voluntarily donate a portion of their sick leave to other full time County employees who, due to extraordinary personal circumstances, have depleted all of their accumulated paid leave time. Administration of this policy will be through the Department of Human Resources. Those employees seeking to receive leave-sharing hours must do so by applying in writing to the Human Resources Department. There is absolutely no guarantee that leave sharing hours will be available to those who request it.

The basic features of the policy are as follows:

- i. An employee can apply for leave sharing hours for a catastrophic illness or debilitating injury constituting a serious health condition under FMLA, a serious health condition of the employee resulting from the employee's pregnancy or as a result of giving birth to a child, or for a parent, as necessary in order to care for a newborn child.
- ii. A leave sharing recipient is responsible for having a physician certify the fitness for a return to duty of the leave-sharing recipient, in accordance with the FMLA policy.
- iii. Authorization of the use of leave sharing by an employee must be approved by the Board of Supervisors or their designee.
- iv. Donated time must be given in eight (8) hour increments.
- v. An employee seeking leave sharing directly soliciting co-workers for donated time is strictly prohibited and may result in forfeiture of the right to acquire donated time.
- vi. There is no limit to the number of hours which may be donated; however, the use of available donated hours is subject to the approval of the Board of Supervisors, based on a review of the County's workload and service needs as well as the likelihood that the employee will be able to resume the performance of essential job functions within a reasonable time, relative to business necessity. The determination of business necessity may be different for a Department Head than for other employees
- vii. Donations may be of accumulated sick leave only.
- viii. Once processed, donated hours remain credited to the recipient, even if not used, and are non-refundable to the donor unless the recipient is deemed ineligible.

Exclusions from the policy are as follows:

- i. Accident or illness covered by Worker's Compensation.
- ii. Intentionally or recklessly self-inflicted injuries, including injuries resulting from an employee driving while intoxicated.
- iii. Injuries sustained by an employee in the course of committing a felony, or any assault (felony or misdemeanor).
- iv. Donated leave may not be used during any period of disciplinary suspension.

Penalty for Ineligibility:

If the recipient is determined to have been ineligible after the use of donated hours, repayment to the employer will be made at the wage/rate salary of the recipient and the donor's sick hours will be credited back to the donor(s), in the order in which such donations were made, until fully repaid.

(d) Bereavement Leave: Full-time employees shall be granted up to three (3) work days of paid bereavement leave as needed, to be used for an absence related to the death of an immediate family or household member as listed under 6.9(c) (iii). This leave is a separate category of leave and not charged against an employee's other paid leave accruals. Annual leave, sick leave or other paid or unpaid leave may be granted with approval of the County Administrator, or designee, for bereavement absences extending beyond the three (3) day bereavement leave provided. Bereavement leave shall not be paid out upon separation of employment.

(e) Civil Leave:

Jury Duty or Subpoena: The County Administrator or Designee shall grant a full-time employee leave with pay for an absence necessary for serving on a jury or attending court as a witness under subpoena. A full-time employee compensated for civil duties, as by jury or witness fees, shall surrender the compensation to the County. Part-time employees shall be granted leave without pay for jury duty or attending court as a subpoenaed witness. Employees must give advance notice of the jury duty or witness subpoena and must provide a copy of the summons for jury duty or witness subpoena to their Department Head or Human Resource Director. Notice to the County should be given as soon as possible after receipt of summons for jury duty. If the employee is excused from jury duty or is otherwise not required to be present in the court, the employee is expected to notify the Department Head immediately and return to work.

Officer of Election: Any full-time employee shall be granted leave with pay for time served as an Officer of Election. Employees who serve must provide two-week notice to the County Administrator or Department Head to allow for department coverage.

(f) Leave Without Pay: Upon written request to the County Administrator and upon approval from the County Administrator, leave without pay may be granted to authorize an absence.

- i. Leave without pay shall be granted only when it is in the interests of the County to do so, and as required by law.
- ii. All available paid leave balances must be exhausted before leave without pay can be approved.
- iii. Annual leave, sick leave and VRS retirement pension credit and contributions shall not accrue during leave without pay, unless otherwise required by federal or state law.
- iv. Failure on the part of the employee to report to work at the expiration of leave without pay may be cause for disciplinary action, up to and including termination of employment.

- v. Except as otherwise specifically provided within this Manual, an employee who is in unpaid status for other than FMLA or Worker's Compensation shall be required to pay the full health insurance premium(s).
- vi. Insurance provider's limits on duration of coverage while on leave without pay will apply.

(g) Emergency Closings Policy: It is the intent of the County to provide maximum services to the public by maintaining normal business hours at all County facilities. Under normal and safe conditions, employees are expected to arrive at work on time for their scheduled work hours.

- i. The County Administrator or the Assistant County Administrator shall determine when to announce the closing or delayed opening of County facilities. Employees shall report to their work station unless otherwise advised by the County Administrator or designee.
- ii. For purposes of this policy, Building and Grounds employees are considered essential employees and may be required to report to work as regularly scheduled regardless of weather conditions. Other County employees may be placed on-call for the purpose of responding to emergency situations.
- iii. Annual leave or FLSA Compensatory leave may be used on an hourly basis to leave early for inclement weather, disasters, or other period in which travel may be hazardous.
- iv. Paid Administrative leave will be given to all employees scheduled to work, if the County Administrator closes offices due to inclement weather, disasters or other hazardous conditions or emergencies. Employees will report the leave on their time sheets as paid administrative leave.

(h) Administrative and Official Duty Leave: Administrative leave with pay may be authorized by the County Administrator as necessary, including without limitation, for leave authorized due to severe weather conditions, conditions in which it is unsanitary or unsafe for employees to remain at work, suspension of an employee during an administrative investigation, or breakdown of equipment making it impossible to perform duties. Paid administrative leave shall not be substituted for any other prior approved leave.

(i) Workers' Compensation: Smyth County will provide Worker's Compensation benefits in accordance with the Virginia Worker's Compensation Act to all employees. In the event of a conflict between any provisions in this Personnel Manual and any requirement of the Act or its regulations, employees shall be afforded all rights, and shall have all obligations, required by current law.

There are several types of benefits provided by the Virginia Workers' Compensation Act which generally include wage replacement after seven (7) calendar days for temporary or partial disability, permanent partial impairment, permanent and total disability, paid medical expenses, death benefits, and rehabilitation services. An employee who has an accident that arises out of and in the course of employment regardless of the severity must report the injury to the Department Head immediately. Failure to report in a timely manner may result in loss of compensation and payment of medical expenses.

a. Program Administration

- i. Each department shall establish procedures for notification of appropriate personnel for emergency and after-hours situations, including notification of injury or illness of employees during such times.
- ii. Notification to the Human Resource Director shall be immediately or within two (2) hours of the first business day following any injury or illness which occurred during emergency or other hours outside the regular business day. The County Administrator shall be notified immediately (at home if after normal business hours) in the event of a fatality, any loss of limb or eye, or inpatient hospitalization.
- iii. Within the first two hours, or as soon as possible thereafter, the employee shall be responsible for filing a report with the County's third-party worker's compensation provider Company Nurse at 1-888-770-0925 with the search code V083.

b. Amount of Compensation during Incapacity

- i. Wage Replacement (Temporary total or partial): While temporarily unable to perform any work, an employee is entitled to 2/3 of gross average wage up to a set maximum limit. There must be seven (7) calendar days of disability before benefits are payable. However, if disabled for more than twenty-one (21) calendar days, the employee receives payment for the first seven (7) calendar days. Benefits cannot exceed 500 weeks unless the person is totally and permanently disabled. If the injured employee cannot return to regular work and is given a light duty job at a lower wage, benefits are 2/3 of the difference between the pre-injury wage and the current pay up to the maximum weekly limit. Cost of living supplements are not paid on temporary partial benefits.
- ii. An employee who has an accident that arises out of and in the course of employment and is unable to return to work immediately may use up to seven (7) days of accrued sick leave. Upon the eighth day of incapacity, the employee will be placed on leave without pay with the County and receive 2/3 of wages directly from the workers compensation provider. VRS contributions will discontinue for both the employee and the employer and the employee will be responsible for the employee share of health insurance premiums as provided below under (c).

- c. *Health Insurance*: An employee injured in the workplace without fault or negligence on their own part, shall be permitted to continue the hospitalization/major medical insurance plan carried by the County as an employee benefit for a period not exceeding twelve months or the maximum under the Provider rules, following the injury and beginning not earlier than after an absence of seven working days chargeable to sick leave or other type of leave. During this period, the County shall continue to pay the employer's share of these benefits. In the event that the employee chooses not to continue these benefits during such period, or fails to pay the required employee's share of the premiums thereof, this benefit shall cease.
- d. *Other Benefits*: While on workers' compensation leave, other paid leave benefits, such as vacation, sick time, and holiday time, shall not accrue until the employee returns to duty.
- e. Modified Work Assignment
 - i. The County actively supports a selective return-to-work program. For claims deemed compensable by the worker's compensation insurance carrier, every effort shall be made within the employees' department to find a suitable modified work assignment for an employee unable to perform regular duties. Any return-to-work action taken by the County shall be in accordance with the Virginia compensation laws and at the discretion of the County Administrator.
 - ii. The modified work assignment shall be based upon the treating physician's medical evaluation including information on required medical treatments, recovery prognosis, work restrictions, and time frames, and the requirements of the department. The Department Head and the County Administrator shall carefully consider the medical reports and limitations, and the availability of suitable modified duty prior to initiating a modified work assignment.
 - iii. An injured employee, who refuses any suitable employment, shall not be entitled to any compensation at any time during the continuation of such refusal, unless in the opinion of the Virginia Workers Compensation Commission the refusal was justified.

f. Termination of Employment

The County shall not terminate employment on the basis of excessive absenteeism due to a worker's compensation related injury unless such absences cause undue hardship to the County following the rules of Americans with Disabilities Act.

(j) Unauthorized Absence: An employee who is absent from duty without approval shall receive no pay for the duration of the absence and is subject to disciplinary action up to and including termination of employment. It is recognized that there may be extenuating circumstances for unauthorized absences and due consideration shall be given to each case.

An employee who fails to report to work at the expiration of an authorized leave of absence or who has not requested and received approval for an extension of such leave, shall be considered absent without leave (unauthorized) and may be subject to disciplinary action, up to and including termination of employment.

(k) Family and Medical Leave; Military Caregiver Leave: Smyth County will provide family and medical leave, and military caregiver leave, in accordance with the federal Family and Medical Leave Act (FMLA) and implementing federal regulations (“FMLA Leave”). Employees should contact the Human Resource Director for information as to their rights and obligations under FMLA. Information is also provided on the FMLA Notice posted on the employee information board located in the Administration building first floor hallway, within new-employee orientation materials, and online at the Department of Labor website www.dol.gov.

In the event of a conflict between any provision in this Personnel Manual and any requirement of FMLA or its implementing regulations, employees will be afforded all rights, and shall have all obligations, required by current FMLA law and regulations.

Any employee wishing to utilize unpaid leave (FMLA) must provide written notice or email to the Human Resources Director. When the need for leave is foreseeable, the employee shall provide such notice at least 30 days in advance. When the need for FMLA leave is not foreseeable, the employee shall comply with the County’s usual and customary procedure for requesting leave.

Upon the Human Resource Director’s designation of leave as FMLA leave, the employee’s absence shall be charged to accumulated paid leave balances until all such available balances have been exhausted, and then shall be recorded as unpaid leave. An employee must exhaust all available paid leave including annual leave prior to being eligible for unpaid leave. The use of paid leave shall run concurrently with the FMLA leave.

If a husband and wife both work for the County, and each wish to take FMLA leave, then their combined total FMLA leave shall not exceed the limits of FMLA.

The County may require certification of a qualifying exigency for military leave, or of the serious injury or illness of a covered service member. The employee shall provide the requested certification within 15 days, or provide a reasonable explanation for a delay.

Absences due to the disability or serious health condition of the employee, including a work-related injury or illness covered by workers’ compensation (to the extent that such other absence also qualifies for FMLA leave) will be designated by the Director as FMLA leave.

In the event that an employee has any questions, concerns or disputes as to the application of FMLA to their circumstances, the employee shall contact the Human Resources Director or the County Administrator in writing

(l) USERRA; Paid Military Leave: The County will comply with the requirements of the federal Uniformed Services Employment and Reemployment Rights Act (USERRA) and implementing federal regulations. In the event of a conflict between any provision in this Personnel Manual and any requirement of USERRA or its implementing regulations, employees will be afforded all rights, and shall have all obligations, required by current USERRA law and regulations.

Employees should contact the Human Resource Director for information as to their rights and obligations under USERRA. Additional information is provided on the USERRA Notice Posted on the employee information board located in the Administration building first floor hallway, within new-employee orientation materials, and at the Department of Labor website www.dol.gov.

- i. An employee (or an appropriate officer of the uniformed service in which the employee's service is performed) must give advance notice of service to the County. However, notice is not required if precluded by military necessity, or if, under the relevant circumstances, the giving of such notice is impossible or unreasonable.
- ii. In addition to any rights or benefits to which an employee may be entitled under USERRA or other federal law, all County employees who are former members of the armed services or members of the organized reserve forces of any of the armed services of the United States, National Guard, or naval militia shall be entitled to leaves of absence from their respective duties, without loss of seniority, accrued leave, or efficiency rating, on all days during which they are engaged in federally funded military duty, to include training duty, or when called forth by the Governor of Virginia pursuant to the provisions of Virginia Code § [44-75.1](#) or § [44-78.1](#).
 - a. The employee shall suffer no loss of regular pay during such leaves of absence, except that any such absence for federally funded military duty, to include training duty, shall not exceed fifteen workdays per federal fiscal year (October 1 through September 30 of the following year), and except that no employee shall receive paid leave for more than fifteen workdays per federally funded tour of active military duty.
 - b. Once an employee is relieved of such military duty, he shall be restored to the job positions held prior to reporting for such duty. If the position has been abolished or otherwise has ceased to exist during such leave of absence, he shall be reinstated in a position of like seniority, status and pay, if such a position exists, or in a comparable vacant position for which he is qualified, unless to do so would be unreasonable.

6.10 ADA/ADAAA POLICY

Smyth County will comply with The American with Disabilities Act (ADA) and the American with Disabilities Act Amendments Act (ADAAA) by reasonably accommodating qualified individuals with a disability so that they can perform the essential functions of a job unless doing so causes a direct threat to these individuals or others in the workplace and the threat cannot be eliminated by reasonable accommodation, or if the accommodation creates an undue hardship to the County.

Employees should contact the Human Resource Director with any questions or requests for accommodation.

6.10 Benefits Programs upon Termination, Resignation, or Retirement

(a) Health Insurance Coverage: The County is subject to the provisions of Title 10, Section 10003(a) of the federal Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA). It is the policy of the County to provide health insurance benefits to former Administrative Division employees in strict accordance with COBRA. In general terms, Cobra may permit terminating employees to continue to be covered by the County's health insurance plan under certain specific conditions. The terminated employee should arrange to meet with the Human Resource Director as soon as possible to discuss COBRA provisions if interested in continuing health insurance coverage. Former Administrative employees are responsible for submitting their health insurance premium payments directly to the County's Cobra provider as required by the provider. Non-payment of the monthly premium will result in cancellation of coverage. If coverage is cancelled due to non-payment or late payment of premiums, the County's obligations under COBRA may cease.

(b) Retirement: Upon termination of employment for any reason, the County will cease its contributions to the Virginia Retirement System retirement fund following the provisions of VRS.

(c) Group Life Insurance: County-provided Group life insurance will cease when the employee is terminated for any reason other than retirement.

(d) Leave: Separation of an Administrative employee for any reason will result in the employee ceasing to accrue any further leave time benefits.

6.11 Hybrid Plan Employees

After the mandatory one-year eligibility period has been completed, VRS Hybrid plan employees hired after January 1, 2014 have short- term and long- term disability benefits available through their benefits plan. This disability coverage provides income protection if an employee can't work due to a work-related or non-work-related illness, injury or other condition. Hybrid plan employees must follow the requirements of the plan, and meet the qualifying periods for disability benefits. Benefits are paid based on a percentage of the employee's pre-disability earnings and number of months of continuous service in the hybrid retirement plan. Additional information is available from the Human Resource Director.

EMPLOYEE CONDUCT

7.1 Conduct Standards

The County expects employees to follow certain conduct standards designed to protect the public interest and the well-being and safety of all employees of the County. The purpose of this chapter is to assist employees with understanding the conduct that is expected of them. The standards and rules of conduct set forth within this section are not intended to be a comprehensive list, and the County reserves the right to take disciplinary action, up to and including termination of employment, for any conduct or behavior that is inconsistent with the safe, courteous and efficient performance of duties necessary for the administration and delivery of public services, regardless of whether such conduct or behavior is specifically referenced within this manual.

7.2 Reasons for Disciplinary Action

Employees are expected to comply with all of the rules, regulations, policies and procedures set forth within this Personnel Manual, and, at all times, every County employee shall conduct themselves in a manner consistent with the safe, courteous, efficient, effective and lawful performance of duties necessary for the administration and delivery of public services.

Notwithstanding any other provision contained within this manual, the following is a list of unacceptable conduct that shall be deemed to violate the standard of conduct expected of all employees and which may result in disciplinary action, up to and including termination of employment.

This list is not all inclusive and is not an exhaustive listing. Other unacceptable offenses may apply:

- (a) Excessive absence or tardiness, failure to report, or absent without notice to Department Head.
- (b) Insubordination.
- (c) Unwillingness or inability to perform job duties in a satisfactory manner.
- (d) Conduct unbecoming an employee of the County, whether on County property during assigned working hours or at any other location or time while representing the County.
- (e) Dishonesty of the employee, or misrepresentation of information by the employee on the application for employment or within any pre-employment interviews or examinations.
- (f) Willfully giving false statements to County officials or the public; falsifying records such as time records, leave records, or vouchers; unlawful destruction of public records
- (g) Misuse of, or causing damage to County property; misappropriation of County property for purposes other than County business
- (h) Use of alcohol or drugs in violation of the County's alcohol and drug-free workplace policy.
- (i) Failure to comply with the County's safety rules.
- (j) Conviction for a felony or a misdemeanor involving moral turpitude.

- (k) Willful and repeated failure to honor legal obligations including sums due to the County, town or state for taxes or assessments.
- (l) Used or threatened to use, or attempted to use personal or political influence in securing promotion, leave of absence, transfer, change of pay rate, or in any manner related to work.
- (m) Induces or has attempted to induce an officer or employee in the service of the County to commit an unlawful act or to act in violation of any lawful or official regulation or order.
- (n) Failure to comply with confidentiality laws or requirements.
- (o) Making public statements regarding County business, under circumstances in which members of the public are under the impression that the employee is authorized to communicate an official statement or position for the County without advance permission from County Administrator.
- (p) Engaging in any harassing, intimidating or discriminatory action against any other employee.
- (q) Loss of driver's license or conviction of serious driving offenses if driving is required as part of assigned job.
- (r) Any act of retaliation against a current or former employee who has filed current or past complaints of violations of County rules, regulations, policies or procedures, or ordinances, or of federal, state laws or regulations.
- (s) Failure to exercise courtesy, respect and tact when dealing with fellow employees and the public.
- (t) Unlawful discrimination in the provision of public services, including, without limitation, discrimination on the basis of political affiliation or political activities of the person or organization for which such services are provided or requested.
- (u) Theft of County property.

7.3 Obligation to Report

An individual who is charged with or convicted of a crime during the course of employment is required to immediately report such information to the Department Head and the Human Resource Director. Failure to report may subject the employee to disciplinary action, up to and including termination. The county may require an employee to provide current criminal history information where the county has reason to believe that a criminal conviction has occurred but has not been reported as required under this provision.

7.4 Compliance with applicable laws and regulations

It is the policy of Smyth County that employees shall perform their duties and responsibilities in accordance with applicable requirements of federal and state laws and regulations, and in accordance with County ordinances and administrative rules, regulations, policies and procedures.

7.5 Liability

It is the policy of the County to defend its employees against lawsuits arising out of the performance of their duties within the lawful scope of their employment. The County provides liability insurance,

self-insurance, or a combination thereof, to cover the costs and expenses incident to defense, including settlement, lawsuits and satisfaction of judgments against the County and its officers and employees, arising from the conduct of such officers and employees in the discharge of their official duties.

Additionally, the Board of Supervisors may employ legal counsel to defend it, its officers and employees, in any legal action to which the Board, any member thereof, or any County officer or employee may be a defendant, when such legal action has been instituted against such person(s) by virtue of any action in furtherance of their duties in service or employment with the County. The costs and expenses of such proceedings shall be paid by the County. Further, in the event that any settlement is agreed upon, or judgment is rendered against the County or any of its officials, officers or employees, the Board of Supervisors may pay such settlement or judgment from the proceeds of County insurance, from public funds available to the Board, or any combination thereof.

If any officer or employee is investigated, arrested or indicted or otherwise prosecuted on any criminal charge arising out of any act committed in the discharge of official duties, and no charges are brought, or the charge is subsequently dismissed, or upon trial he is found not guilty, the Board of Supervisors may vote to reimburse the officer or employee for reasonable legal fees and expenses incurred by him in defense of the investigation or charge, and upon the Board's approval of such reimbursement the approved amount shall be paid from the treasury of the locality.

Every employee shall comply with the following:

- i. Any employee who is served with any summons, complaint, process, notice, demand, or pleading relating to the performance of the duties for the County shall deliver a copy to the County Administrator as soon as possible after being served.
- ii. Every employee shall cooperate fully with the County as necessary for the County to defend any action brought against the County, its officials, officers and employees, relating to the discharge of County functions, duties and responsibilities or the provision of services to the public.
- iii. Failure to cooperate is grounds for the County to decline to defend anyone under this policy.

7.6 Conflict of Interests and Public Procurement

All officers and employees of the County are required to read and familiarize themselves with the provisions of the Virginia State and Local Government Conflict of Interest Act (COIA) Sec. 2.2-3100 et seq. of the Code of Virginia, and to conform their conduct to the requirements of the Act. An employee with questions concerning interpretation or the application of the Act shall contact the Office of the Commonwealth's Attorney or the County Attorney, as disclosure of information may be required under certain circumstances.

Each employee shall refrain from any use of official position which is motivated by the desire for private gain for him/her or other persons to whom the employee has personal, business, or family ties.

Employees shall not solicit, offer or accept any money, loan, gift or gratuity, favor, service, business or professional opportunity, or other thing of value, in violation of Sec. 2.2-3103 of the Virginia State and Local Government Conflict of Interest Act.

The provisions of COIA are supplemented by the provisions on ethics in public contracting set forth within the Virginia Public Procurement Act (VPPA), Virginia Code Sec. 2.2-4367 et seq.) Employees are also expected to conform their conduct and activities to the requirements of the VPPA.

7.7 Administrative Investigations

Employees are required to cooperate with and participate in administrative investigations involving themselves or other employees. Failure to do so may result in disciplinary action, up to and including termination of employment.

7.8 Relationship between Officers, Employees, and Board of Supervisors

It is the policy of the Board of Supervisors that the County Administrator has the primary decision-making authority over the duties, responsibilities and conduct of administrative employees. Accordingly, in the event of a personnel dispute, problem, or discontent with a decision, employees under the County Administrator should exhaust every means to resolve said problems administratively before bringing the matter to the attention of individual Board members or the Board of Supervisors as the governing body. Administrative Division employees are encouraged to relate to members of the Board of Supervisors on a professional basis, but to refrain from using such relationships to circumvent established administrative procedures to resolve problems or to intervene on behalf of the employee.

7.9 Illegal Harassment

Policy: It is the policy of the Smyth County Board of Supervisors that all employees work in an environment free of harassment. Harassment is a form of misconduct and discrimination which undermines the integrity of the working relationships of the County's employees, their Department Heads and the Board. All County officials and employees are responsible for the effective administration of this policy.

Harassment Defined: The term "harassment" as used in this Manual, shall mean any unwelcome conduct, such as verbal or written words, demands, or actions, including those of a sexual nature (including, without limitation, any sexual advances, requests for sexual favors, sexual comments, sexual jokes, sexual gestures, sexual pictures, and sexual innuendo) when:

- i. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- ii. Submission to or rejection of such conduct by an individual is used as a basis for decisions affecting the individual's employment status; or,

- iii. Such conduct has the purpose or effect of substantially interfering with an individual's work environment, through the creation of intimidating, hostile or offensive working conditions.

Reporting Harassment: Reports or complaints of harassment may be made to an appropriate County official. The term "appropriate County official" shall mean and include an employee's immediate Department Head; any other person within the employee's supervisory chain of command; the County's Director of Human Resources; and the County Administrator. Every employee shall have a right, without adverse consequences, to go outside the supervisory command to the Director of Human Resources or the County Administrator, to make a report or complaint of harassment.

Investigation: Any report of harassment will be promptly investigated by the County Administrator and/or designees. The person making the report or complaint will be required to provide a written statement of the circumstances being reported, including the name of the offending employee(s); relevant dates and times; a description of the offending conduct; the names of any witness (es) and any other factual details such person is able to provide.

The investigator(s) shall prepare a written report of findings for the County Administrator's review. The written report shall include a written statement obtained from the employee(s) who allegedly engaged in harassment. The written report shall not contain the investigator(s)' opinions or conclusions about whether the conduct complained of constitutes harassment. If the County Administrator is the investigator, the written report shall be kept separate from any document(s) in which opinions or conclusions are expressed.

The County Administrator shall review the investigative report with the Director of Human Resources and the County Attorney, and shall then make an administrative determination as to whether or not harassment has occurred, and identifying any appropriate corrective and/or disciplinary action. Any information gathered as a result of any investigation will be held in confidence to the greatest extent possible and those individuals involved in the investigation shall not discuss information regarding the complaint with each other or with other County employees, other than the investigators.

All records, including reports, complaints, investigative materials and reports, pertaining to harassment investigations, and all copies thereof, shall be maintained in a secure location. No copies of any such records shall be kept or maintained in any other County department or office.

Other Actions: If any conduct alleged, substantiated or discovered during an administrative investigation justifies the need for disciplinary action against an employee, for employment-related reasons other than harassment (i.e., the conduct amounts to employee misconduct, even if it does not fit the definition of harassment) an employee may be subject to disciplinary action, up to and including termination of employment, as a result of such conduct.

Rules of Conduct: Any employee who violates any of the following rules shall be subject to disciplinary action, up to and including termination of employment.

- i. No County employee shall engage in harassment while on duty or on County premises.
- ii. No County employee shall retaliate or discriminate against any person(s) who make a complaint of harassment.
- iii. No County employee shall retaliate or discriminate against any person(s) who testify, assist or participate in any investigation, proceeding, or hearing regarding or relating to a report or complaint of harassment.
- iv. Any employee who believes he or she is the subject of harassment in the workplace will promptly contact the Department Head or another appropriate County official to make a complaint. Whether or not a report is made promptly will depend on specific circumstances; however, a report made within 3 working days of the conduct being reported will generally be considered to have been made promptly.
- v. Allegations of harassment shall be made in good faith, based on facts which are true to the best of the reporting person's knowledge, information and belief.

7.10 Workplace Violence

Smyth County is committed to providing a work environment that is free from intimidation, threats and violent acts. Employees are expected to refrain from physical contact, violence or other threatening behaviors. Any type of violence will not be tolerated. To ensure a safe workplace, the following behaviors are strictly prohibited;

- (a) Engaging in derogatory or verbally abusive speech
- (b) Threatening or behaving in a hostile manner
- (c) Harassing or intimidating another or encouraging others to harass or intimidate
- (d) Vandalism to property or equipment

Employees who feel uncomfortable or threatened in any way by such behaviors should immediately report details of the incident to a Department Head, Human Resources, or the County Administrator. All such complaints will receive immediate attention and will be thoroughly investigated. Based upon the results of the investigation, disciplinary action will be taken against the offender up to and including termination.

Employees who observe or have knowledge of any violation of this policy shall report it immediately to any Department Head or Human Resources.

This policy extends to visitors, vendors and all full-time and part-time employees.

7.11 Political Activity

- (a) Employees shall not be asked or coerced to support a political activity, whether funds or time are involved.
- (b) Employees shall not engage in political activity on work premises during working hours.

(c) An employee shall not use County-owned equipment, supplies or resources, or other material such as disks, flash drives, computers, etc. when engaged in political activities.

(d) An employee shall not discriminate in favor of or against, any person or applicant for employment based on political activities.

(e) An employee shall not use the employee's title or position while engaging in political activities.

7.12 Travel Policy

All reimbursable travel must be directly related to the employee's job or job performance and must be approved by the County Administrator no less than five (5) days in advance of the travel. The following conditions must be met for reimbursement:

1. Receipts: Receipts must be kept for all meals, hotel/motel rooms, gas, tolls, and registration fees.
2. Meals: Meal expenses for same day trips up to \$35.00 per person, per day will be reimbursed only when travel in one direction exceeds 175 miles. Reasonable and actual cost of meals and gratuities reimbursed to the County by the Commonwealth of Virginia will continue to be refunded as provided pursuant to the Code of Virginia §2.2-2825.
3. The County will reimburse up to \$35.00 per day for meals. Tips provided for service will be reimbursed up to 20% of the cost of the meal.
4. Mileage: Mileage for use of personal vehicles will be reimbursed at the rate per mile determined by the current IRS standard mileage rate.
5. Alcohol: There will no reimbursement of alcoholic beverages.
6. Entertainment: The County will not reimburse for entertainment including tournaments, movies (including in-room movies) and non-work-related excursions.
7. Family Travel: The traveler must cover all extra expenses related to family members traveling with the employee. This includes all meals, extra related hotel/motel charges, and additional registration fees. The employee is responsible that all travel expenses are reported accordingly.
8. Motel/Hotel Accommodations: The employee is required to request the government or lowest rate available.

7.13 Use of County Equipment

(a) Telephone Use and Use of the Internet:

- i. The County provides telephones and computers for employees who need them to conduct County business.
- ii. Personal use of office telephones for long distance and toll calls is prohibited.
- iii. Personal calls shall not be made or received on any County office or cell phones, when they are of a nature or extent that interrupt or interfere with the employee's work or ability of others to perform their work, or where such calls either prevent or hinder the use of the phone for County business.

- iv. Use of County-owned cell phones including smart phones, Email, and internet service shall be limited to hours during which an employee is performing work on behalf of the County or is on-call.
- v. Reimbursement shall be required if any excess charges arise due to unauthorized personal use. Unauthorized personal use shall be subject to disciplinary action up to and including termination.

(b) Postage. The use of County-paid postage for personal correspondence is prohibited.

(c) Other Property and Equipment. Unauthorized removal of County equipment or property from County worksites, and the use of County equipment or property for personal reasons, is prohibited.

(d) EMPLOYEES ARE HEREBY PLACED ON NOTICE THAT THEY SHALL NOT HAVE AN EXPECTATION OF PRIVACY WHEN USING COUNTY TELEPHONES, COMPUTERS, INTERNET SERVICES, WI-FI, EMAIL, TEXTING AND OTHER ELECTRONIC AND TELECOMMUNICATIONS SYSTEMS AND EQUIPMENT. All County electronic and telecommunications systems and equipment are owned by the County. Information and records created, sent, received, accessed or stored using such systems and equipment are property of the County. The County reserves the right to monitor all activities without notice and the County may monitor, access and review all such information and records, at any time, as the County deems necessary for the efficient, effective and secure use and operation of such systems. Users must recognize that computer generated documents (e.g., old email) are public records subject to the Virginia Freedom of Information Act.

(e) All internet use shall be conducted in compliance with applicable federal and state laws governing electronic and telecommunications.

(f) The use of County electronic and telecommunications systems and equipment for illegal or inappropriate purposes is prohibited. Illegal use means any use in violation of local, state and/or federal laws and regulations. Inappropriate use means any use that would violate the County's policies or procedures, including, without limitation, the following:

- i. Email: creating or forwarding jokes, chain messages, or any other non-work-related messages.
- ii. Internet: pirating software; stealing passwords; hacking other machines on the Internet or County network; participating in the viewing or exchange of pornography or obscene materials; engaging in other illegal or inappropriate activities using the Internet.
- iii. Any unauthorized access to any computer system, application or service.
- iv. Concealing or misrepresentation of an employee's identity when sending or receiving communications using County electronic or telecommunications systems or equipment, including, without limitation, using "identifiers" of other individuals as your own, and using a computer logon ID other than the individual user ID assigned.
- v. Any activities for private, commercial purposes, such as business transactions between individuals and/or commercial organizations.

- vi. Any usage that significantly interferes with or disrupts network users, services, or computers. Disruptions include, but are not limited to, distribution of unsolicited advertising and deliberate propagation of computer viruses.
- vii. Any activities where users engage in acts that are deliberately wasteful of computing resources or which unfairly monopolize resources to the exclusion of others. These acts include, but are not limited to, broadcasting unsolicited mailings or other messages, creating unnecessary output or printing, or creating unnecessary network traffic.

(g) Minimal use of County systems for personal internet accounts while on breaks is permissible. Abuse of this privilege may result in disciplinary action up to and including termination.

(h) Smyth County's Policy on Use of Internet and Electronic Communications provides more detailed guidelines for use of these systems and is available through the Information Systems Department as well as the County's employee's website.

7.14 Confidentiality of Records

Many County employees work in capacities where confidential information, data and records are created or used in the performance of County business. Confidential information is (i) information concerning identifiable individuals, of a personal, medical, legal or financial nature, that could be damaging or detrimental to the privacy, safety or financial interests of such individuals, and (ii) information that is available to an employee by virtue of the position, that is not, or may not be available to the general public.

No employee shall discuss or disclose confidential information with or to any person(s) not authorized to have access to it.

Covert recording, scanning or photocopying while on duty or on County property is a violation of policy and will lead to disciplinary action, up to and including termination.

7.15 Dress Code

During work hours, employees are considered to be representatives of the County and are required to dress in a manner that portrays a professional image. Employees are expected to dress for work as is indicated by the working environment or departmental requirements. Clothing should be clean, neat in appearance, and free from tears, rips, and other wear. Clothing may not display offensive messages, profanity, racial or sexual references. Clothing that is too tight or revealing should not be worn. Where uniforms are provided, employees shall maintain them in good condition.

7.16 Tobacco Use on County Property

Effective January 1, 2017, all Smyth County facilities and grounds are tobacco-free. The use of traditional tobacco products (i.e., cigarettes, cigars, pipes, smokeless tobacco, etc.) and non-traditional electronic smoking devices are prohibited on all County facilities and grounds except in the privacy of the employee or visitor's personal vehicle.

7.17 Break Periods

Reasonable break periods are provided during working hours for employees. Employees may take up to fifteen (15) minutes during the morning work period and ten (10) minutes during the afternoon work period. Breaks must be scheduled so that adequate office coverage and services are provided. Break periods must not be abused, not be used to extend lunch periods, or shorten the duration of the workday. Excessive break periods or too much time spend away from performing established job duties will be handled according to the disciplinary procedures.

WORKPLACE SAFETY

8.1 Safety Program

It shall be the policy of Smyth County to provide its employees with a workplace in which they can perform their duties under the safest conditions possible. Every reasonable effort will be made to promote accident prevention. Safety is a fundamental responsibility of both employees and management and rests equally between both employees and management.

Department Heads shall take steps reasonably necessary to establish safe work areas for their employees, and shall be held accountable for failing to implement measures, within budgetary constraints, to reduce the occurrence of preventable injuries, ensure proper training, recommend safety improvements, take appropriate disciplinary action for those who fail to follow safety procedures and report all accidents and injuries involving County employees, County vehicles or property in accordance with County reporting procedures.

Employees shall comply with the County's safety program, report all accidents and safety hazards, keep work areas clean and orderly, avoid engaging in distracting behavior, lift and handle materials properly, be familiar with the County's worker's compensation injury-reporting requirements and operate assigned vehicles, equipment, and machinery in a safe and responsible manner. Failure to follow these guidelines shall lead to disciplinary action up to and including termination.

Employees are required to adhere to all departmental safety rules, procedures and practices, and to use personal protective equipment as required. All employees are obligated to report or correct all known unsafe working conditions.

8.2 Safe Operation of County Vehicles

Employees who use a county vehicle whether occasionally or on a daily basis are expected to know and observe County safety procedures and traffic laws of the County and of the Commonwealth of Virginia. In addition, for the protection and safety of County employees and the public, every employee is required to follow these safety steps:

- i. Any operator of a county vehicle must possess a valid driver's license appropriate for operation of the vehicle. Employees required to operate a county vehicle, must report the invalidation, revocation, restriction, or suspension of their driver's license to the Department Head within one workday of the occurrence.

Employees who do not report these changes as required may be subject to disciplinary action, up to and including termination of employment.

- ii. Employees who operate any County vehicle shall provide a copy of driver's license upon renewal of license to the Human Resource Director.
- iii. Employees may not drive County vehicles while under the influence of alcohol or drugs, including prescription drugs that have warnings on the label regarding drowsiness or impairment while driving. Failure to comply with this rule may result in disciplinary action, up to and including termination of employment.
- iv. Safety belts must be properly used by the vehicle operator and all passengers in County vehicles at all times; the vehicle operator shall be responsible for ensuring that passengers wear safety belts.
- v. An employee who observes another employee operating a county vehicle in an unsafe manner must report the observation to the appropriate Department Head.
- vi. Any employee who receives a traffic summons for violation of any County or Virginia traffic law(s) while operating a County vehicle shall be personally liable and responsible for the payment of any and all fines and other charges associated with the violation, including court costs.
- vii. Personal use of County vehicles by County employees is prohibited. Employees shall not transport any passenger(s) other than those whose presence is required by County business.
- viii. Each employee assigned a county vehicle is responsible at all times for ensuring proper care, inspection, and maintenance of the vehicle is obtained when required. Employees shall report any operational or mechanical or physical defects or damages to the Department Head as soon as possible.

8.3 Uniforms, Protective Equipment and Safety Equipment

Uniforms, protective clothing or safety equipment shall be provided to those employees whose personal clothing might be damaged in the position and whose position requires safety gear.

- i. Safety shoes shall be worn by each County employee whose position requires protective footwear.
- ii. Safety vest, hard hats, protective eyewear and gloves shall be provided to and worn by each County employee whose position requires such protective equipment.

- iii. The above items will be replaced when the Department Head determines they are no longer usable.

ALCOHOL AND DRUG FREE WORKPLACE POLICY

9.1 Purpose

Smyth County has an obligation to the public and to its employees to conduct its operations safely and efficiently. It is in the best interests of the County, as an employer, to attract and maintain a workforce free of impairment by alcohol and drugs. Employee substance abuse increases the potential for absenteeism, substandard performance, and for accidents that may result in injury to self, other employees, or the general public. It is the policy of the County that all County work sites shall be maintained as an alcohol- and drug-free workplace. The use of alcohol or illegal drugs, and the misuse of prescription or other drugs, is unacceptable in the County workplace. For purposes of meeting its obligations to provide an alcohol- and drug-free workplace, the County reserves the right, at any time, to search all County workplaces, and all County-owned furniture, equipment or premises, including offices, desks, lockers, safes, file cabinets, toolboxes, etc.

The purposes of this Policy are to:

- i. Maintain a safe and productive work environment for all employees;
- ii. Protect the safety of citizens who depend upon the services provided by County employees;
- iii. Educate employees about the dangers of substance abuse in the workplace;
- iv. Train Department Heads to recognize behavior indicative of potential substance abuse, and to take action to remedy recognized problems;
- v. In appropriate circumstances, to provide an opportunity to encourage employees to take advantage of available resources through local resources or employee's health care plan.

9.2 Rules of Conduct

- i. No employee shall unlawfully manufacture, distribute, sell, dispense, possess or use any controlled substance or illegal drug.
- ii. No employee shall possess, consume, or be under the influence of any illegal drug, controlled substance, alcohol, or other intoxicant while on duty or on County property.
- iii. No employee shall report to work, operate any County vehicle or machinery, or otherwise perform job duties on behalf of the County while impaired by or under the influence of alcohol or any drugs, whether such drugs are lawful (prescription, over-the-counter) or unlawful.
- iv. As a condition of employment, each employee shall notify the Department Head of a conviction of any criminal drug offense, no later than five (5) calendar days after such

conviction. The Department Head is required to report the conviction to the Human Resource Director immediately.

- v. As a condition of employment, an employee shall submit to a drug or alcohol screening, when requested by the County to do so pursuant to this policy. An applicant for employment shall, following receipt of a conditional offer of employment, be required to submit to a drug and/or alcohol screening.
- vi. As a condition of employment, each employee shall abide by the terms of this County policy and regulations implemented by the County Administrator or Director of Human Resources in connection with this policy.
- vii. Employees who report to work under the influence of drugs or alcohol will not drive themselves home or elsewhere, either in their own vehicle or in a County-owned vehicle.

9.3 Applicability

This policy is applicable to all County Administrative employees.

9.4 Designated Employer Representative.

The Director of Human Resources shall serve as the Designated Employer Representative (DER). The DER shall have the authority to make decisions about the testing process and to answer questions about it. The DER has authority to remove an employee from safety-sensitive duties immediately upon receipt of positive test results.

The Human Resource Director (DER) is the employee contact person for any questions regarding the County Drug and Alcohol-Free Workplace policy, related testing program, and the Employee Assistance Program available through the employee's health insurance plan.

9.5 Drug and Alcohol Testing

Drug and/or alcohol screenings may be required of County employees as follows:

- (a) All employees, generally;
 - i. Pre-Employment drug screening: Applicants for County jobs shall be advised of the County's policy regarding pre-employment drug/alcohol screening. No prospective employee will be asked to submit to screening unless and until a conditional offer of employment has been made. An unexplained positive result may result in withdrawal of the offer of employment. Current employees being transferred or promoted from non-safety sensitive position to a safety-sensitive position will be required to submit to a drug screening prior to commencement of the duties of their new position.
 - ii. Reasonable Suspicion: Employees may be required to submit to drug and/or alcohol screening when a Department Head observes signs and symptoms that lead them to suspect drug use, alcohol use, or some other drug-free workplace policy violation. The Department Head shall document the facts constituting reasonable suspicion that the employee is under the influence of alcohol or illegal drugs. If the employee refuses to

be tested, the Department Head will remind the employee that refusal to submit to a test within one hour constitutes insubordination under this Manual which shall be the basis for termination.

- iii. Random Screening: Random screening, when utilized, will be performed on an unannounced, unpredictable basis, on employees whose identifying information has been placed in a testing pool from which a scientifically arbitrary selection is made. This selection will be computer generated to ensure that it is indeed random and that each person of the workforce population has an equal chance of being selected for testing, regardless of whether that person was recently tested or not.
- iv. Incident/ Post Accident: Employees involved in workplace accidents, including without limitation, accidents involving use of motor vehicles in the course of employment, may be required to undergo drug and or alcohol screening.

Employees shall be required to submit to drug- and alcohol- screening any time they are involved in an on-the-job vehicle accident resulting in a citation for moving violations arising from an accident that: (1) requires a vehicle to be towed, (2) results in an injury requiring immediate medical attention away from the scene, or (3) results in a fatality. Employees are prohibited from using alcohol or controlled substances following an accident that necessitates testing, as described above, until after they have been tested.

Employees shall be required to submit to drug- and alcohol-screening any time they are involved in any workplace incident that results in the death or serious injury of an employee or member of the public.

When post-accident or post-incident screening is utilized, the employee(s) subject to the screening shall not be allowed to return to work prior to the screening or subsequent to the screening until satisfactory results of the screening have been received.

In the event any workplace accident results in the death of an employee, blood/urine samples may be tested for the presence of drugs/alcohol.

- (b) Employees in Positions Where Screenings are required by Federal Law: Federal laws and regulations require certain County employees to submit to screenings for illegal drugs or alcohol. Drug and/or alcohol screenings are required by the following federal agencies: **FMCSA** (Federal Motor Carrier Safety Administration, which regulates the operation of commercial motor vehicles); and **FTA** (Federal Transit Administration of the federal Department of Transportation) and employees in positions regulated by those agencies shall be governed by the Anti-Drug Program(s) promulgated by the County in accordance with applicable federal regulations.

The Director of Human Resources, in consultation with the Department Heads of County departments in which employees subject to federally mandated drug and alcohol screenings are employed, will maintain a drug and alcohol program and screening procedures for employees subject to those federal requirements. Where not inconsistent with the applicable federally-mandated program(s), the employees shall also be subject to the provisions of this Policy. If any of the federally-mandated Drug Programs, or federal law or regulations, is silent on the issue of consequences for violation(s) thereof, then employees subject to those Programs shall be subject to the consequences set forth in this Policy.

The term “alcohol screening” shall refer to an evidential breath-testing device operated by a trained breath alcohol technician. The term “drug screening” refers to urinalysis used for the detection of the presence of illegal drugs, where the testing of urine is performed by a laboratory approved by laboratory approved by the National Institute on Drug Abuse (NIDA) or the Virginia Department of Criminal Justice Services Division of Forensic Science. The testing shall include a panel screening for the 5 standard illegal drugs tested for under SAMHSA guidelines, with gas chromatography/mass spectrometry (GC/MS) confirmation on all positive tests. The term “positive result” refers to a screening that detects the presence of alcohol or drugs in an employee’s system. The County may test for other additional drugs, whether legal or illegal.

Urine specimens will be collected in a manner such that the employee is not observed while actually providing the specimen. If there is reason to believe that the employee has altered or substituted the urine specimen provided, then a second sample will be obtained under the direct observation of a same gender collection site person.

Drug and/or alcohol screenings may be conducted by the County at any of the following times: (a) while an employee is performing job duties, (b) Incident Screenings: within two (2) hours after an Incident (for alcohol screenings) or within forty-eight (48) hours after an Incident (drug screenings), and/or (c) Pre-employment screenings: prior to making a final offer of employment.

9.6 Testing Facility and Procedures

Standardized testing procedures consistent with federal Substance Abuse and Mental Health Services Administration (SAMHSA), including arrangements for a Medical Review Officer to review test results will be established. Any drug and/or alcohol testing by the County will be conducted by a laboratory licensed by the Commonwealth and certified by SAMHSA, the name and location of which will be made available to the employee by the Human Resources Department. The procedures established by the Director shall include provisions for notification of an employee of results of a test after receipt of such results from the laboratory. If the results are positive, the employee will be given the opportunity to explain the positive result to a Medical Review Officer. In addition, the employee may have the same sample retested at a laboratory of the employee’s choice at the employee’s expense, limited to laboratories licensed by the Commonwealth and certified by SAMHSA.

Upon determination that there exists cause to require a reasonable suspicion screening, then the employee shall be removed from duty and shall not be allowed to return to work prior to the screening or thereafter, until the County receives satisfactory report of the results of the screening.

9.7 Expenses

The County will pay the cost of any testing that it requires or requests, including re-testing of confirmed positive results if such retesting is performed at the election of the County. Any additional tests that the employee requests will be paid for by the employee.

9.8 Privacy Rights

The results of a drug or alcohol screening may be used in arbitration, or administrative hearings, and any court cases arising as a result of the employee's employment or of the drug test. Results of drug and alcohol screenings will also be sent to federal agencies as required by federal law. Otherwise, results of a drug or alcohol screening will be maintained as confidential health information and confidential personnel information, and shall only be disclosed or disseminated by the County, its officers and employees as required or authorized by law, or as requested within a written release signed by the employee.

9.9 Discipline and Corrective Action

A refusal to submit to a required screening, the adulteration of a sample or specimen required to be submitted; the tampering with any sample or test facility, and any positive test result shall result in disciplinary action, up to and including termination of employment:

- i. Following the County's receipt of a confirmed positive drug screening, an employee shall be terminated from employment.
- ii. In the event of a positive test result of a pre-employment screening, a statement of medical justification provided in writing by the Medical Review Officer will be considered by the County, but the County shall not be required to accept such statement as establishing satisfactory results of such screening.
- iii. Nothing contained within this Policy shall prohibit or in any way limit the County's authority to impose disciplinary action upon any employee for conduct that is so serious as to be inappropriate or prohibited under any circumstances, regardless of the involvement or influence of alcohol or drugs in the incident. In the event that an employee's conduct would be grounds for disciplinary action pursuant both to this Policy and another County procedure or regulation, the County may elect to impose the most severe discipline permitted under the circumstances, or (if not inconsistent) to impose discipline both for the violation of this Policy and for other aspects of the employee's conduct.

9.10 Exclusions

Moderate use of alcohol outside of regular business hours at functions or meetings in which

County employees participate as a representative of the County is permitted as an exception to this Policy, as long as such employee does not operate a County-owned vehicle at a time proximate to such use.

9.11 Interpretation

The authority to administer and interpret this policy rests with the County Administrator, and is generally delegated to the Director of Human Resources.

DISCIPLINE AND SEPARATION

10.1 Policy

Any employee who engages in conduct that violates any of the rules, regulations, policies or procedures set forth within this Manual including those listed under section 7.2 shall be subject to disciplinary action, up to and including termination.

10.2 Types of Disciplinary Actions

Disciplinary action may take various forms, depending on the gravity of particular situations and an employee's previous job performance and disciplinary history during employment with the County.

(a) Warning or Reprimand: An employee may be warned for those types of actions less severe in nature but which require correction. The warning shall be specific about deficiencies and consequences if actions continue in the future. Verbal warnings are maintained by the Department Head. Written warnings shall be kept in the employee's personnel file. A written warning given to an employee is referred to as a "written reprimand".

(b) Disciplinary Suspension: A disciplinary suspension without pay may be imposed when a warning is deemed an insufficient consequence, but circumstances are not deemed sufficient to merit termination of employment. When a disciplinary suspension is imposed, the suspension is without pay, and an employee may not utilize annual leave or any other paid leave to cover the absence during the period of suspension.

(c) Administrative Suspension. An employee may be suspended by the County Administrator, with or without pay, pending the completion of an administrative investigation, or pending completion of a criminal investigation of any charges that may be lodged against him or her. An administrative suspension with pay shall be recorded as "administrative leave with pay" and an employee shall not be required to utilize annual leave or other paid leave accounts for the period of absence.

An administrative suspension without pay shall be recorded as "administrative leave" and an employee's absence during such suspension shall be charged to accrued holiday time, annual leave and compensatory time, in that order, until such accruals are exhausted, and after that, the absence shall be recorded as "leave without pay."

The fact that a person is acquitted of criminal charges does not necessarily mean that a County disciplinary or administrative suspension, or other disciplinary action, will be revoked; additionally, such acquittal shall not preclude the County from taking disciplinary action, up to including termination of employment. However, if an employee is acquitted of criminal charges and is reinstated to duty with the County, then he or she may, with the recommendation of the County Administrator and approval of the Board, be paid for the period of suspension as if it had not occurred.

Suspensions without pay, whether disciplinary or administrative in nature, may result in a corresponding suspension of benefits. Prior to imposition of any suspension without pay, the County Administrator and Department Head shall consult with the Director of Human Resources, to ensure that the notice of suspension given to an employee will include information about the effects of the suspension on pay and benefits.

(d) Demotion; reduction in pay: The demotion of an employee may be affected as disciplinary action in appropriate circumstances. In addition, the reduction or suspension of pay or leave may be utilized as, or in connection with, disciplinary action. The reduction of pay or leave accounts, when used, shall be done in a manner consistent with the requirements of the FLSA as they may apply to an employee's job position.

(e) Termination of employment: Termination of an individual's employment is the most severe form of disciplinary action and is reserved for circumstances where due to the seriousness or significance of a single infraction, or where due to an employee's prior history of unsatisfactory performance or disciplinary actions, termination of the employee is in the best interests of the County.

10.3 Disciplinary Procedure:

(a) Administrative Investigation: Prior to the imposition of disciplinary action other than those authorized to be taken by a Department Head (see paragraph (b), below) the County Administrator or designee will investigate suspected violations of the rules, regulations, policies or procedures set forth within this Manual. The investigation will be made with the purpose of ascertaining the facts relative to the circumstances surrounding the alleged violation. Upon completion of the investigation, the County Administrator, in sole discretion, will prepare a written report summarizing the facts gathered, and findings, determinations, conclusions and recommendations, if any, for disciplinary action. As part of the administrative investigation any employee may be interviewed and questioned, including the employee who is the subject of the investigation. All employees are required to cooperate in administrative investigations.

(b) Report: A Department Head shall have authority to impose verbal corrections and warnings, written reprimands, and disciplinary suspensions of less than one full workweek involving non-exempt (FLSA) employees. All disciplinary action taken by any Department Head shall be reported immediately to the County Administrator and documentation of the reasons for the disciplinary action shall be prepared by the Department Head and placed in the employee's personnel file.

(c) Complaints and Grievances: When an employee has a complaint or grievance arising from any action affecting employment status or conditions of employment, the employee shall attempt to resolve the complaint informally with the Department Head. The decision of the employee's Department Head shall be final; except that, in the event an employee has a complaint within the purview of the County's Grievance Procedure ("grievable complaint") the employee may utilize the grievance procedure.

10.4 Separation from Employment:

Types of separation from employment are:

(a) Termination of employment: An involuntary separation imposed by the County as a result of:

- i. disciplinary action;
- ii. reduction in the County's workforce ("layoff"), pursuant to a procedure established in advance by the County Administrator in consultation with the Director of Human Resources and County Attorney;
- iii. Elimination of a job position due to lack of funding or administrative reorganization.

(b) Unpaid status: a period of time in which an employee is on leave without pay, resulting in discontinuance or suspension benefits that are tied to status as a paid employee.

(c) Resignation: An employee may terminate employment with the County by submitting a resignation to the Department Head or the County Administrator. In the event that an employee is absent without leave for three (3) workdays, such absence shall be deemed to constitute a resignation by the employee and shall be effective at midnight on the third (3rd) workday. In the event that an employee provides justification for such application (such as temporary incapacity due to serious illness or injury; temporary inability to communicate resulting from disaster conditions, etc.) the employee may be reinstated with the approval of the County Administrator.

Full time employees are encouraged to provide at least two (2) weeks advance notice of the effective date of resignation. A resignation shall not become effective until a written acceptance has been issued by the County Administrator. In all cases, the Director of Human Resources shall determine the official separation date of resignation. After written acceptance has been issued, the Department Head or County Administrator need not consider any request by the employee for reinstatement.

(d) Expiration of temporary job. When an employee held a temporary employment, and the authorized period of temporary employment has expired, the employee shall become separated from employment.

(e) Retirement: When a full-time employee subject to provisions of the Virginia Retirement System (VRS) reaches retirement age in accordance with the provisions of VRS and desires to retire from County employment, the employee shall so advise the Human Resources Department in writing ninety (90) calendar days prior to the desired date of retirement. The Human Resource Department will work with the employee to allow sufficient time to process all required paperwork to commence retirement payments at the time requested by the employee.

(f) Death

GRIEVANCE PROCEDURE

11.1 Statement of Purpose

The Grievance Procedure is designed to encourage a speedy and fair resolution of personnel complaints. Employees and Department Heads are encouraged to discuss problems as they arise because it is always more difficult to establish the facts after the lapse of time and because speedy resolution of problems promotes a harmonious work place and consequently a more efficient delivery of services on behalf of taxpayers.

This grievance procedure, and each amendment hereto, shall be certified by the County Attorney and County Administrator to be in compliance with Virginia Code § 15.2-1507, and certification shall be filed with the Clerk of the Circuit Court having jurisdiction within Smyth County.

11.2 Coverage of Personnel

The grievance procedure is available for settling many disputes associated with your employment with the County.

- (a) Unless otherwise provided by law, all non-probationary local government full-time and part-time employees are eligible to file grievances with the following exceptions:
- i. Appointees of elected groups or individuals, provided however Constitutional Officers may have an agreement with the Board of Supervisors
 - ii. Officials and employees who by charter or other law serve at will or pleasure of an appointing authority
 - iii. Deputies and executive assistants to the County Administrator;
 - iv. Department Heads of local government operations;
 - v. Employees whose terms of employment are limited by law
 - vi. Temporary and limited term and seasonal employees;
 - vii. Law Enforcement officers as defined in Chapter 5 (§ [9.1-500](#) et seq.) of Title 9.1 of the Virginia Code, whose grievance is subject to the provisions of Chapter 10.1 and who have elected to proceed pursuant to those provisions in the resolution of their grievance, or any other employee electing to proceed pursuant to any other existing procedure in the resolution of the grievance.
- (b) The County Administrator shall determine on an on-going basis which County officers and employees are excluded from this grievance procedure pursuant to the categories established in paragraph (a) above, and shall maintain an up-to-date list of the affected positions.

(c) A grievance is a complaint or dispute relating to your employment, including, but not necessarily limited to:

- i. Disciplinary actions including termination of employment, demotions, or suspensions
- ii. Termination of employment resulting from formal discipline or unsatisfactory job performance
- iii. The application of County rules, regulations, policies or procedures
- iv. Acts of retaliation as a result of utilization of or participation in the grievance procedure
- v. Acts of retaliation against an employee who has complied with any law of the United States or the Commonwealth, has reported any violation of law to a governmental authority, has sought any change in law before the United States Congress or Virginia's General Assembly, or has reported an incidence of fraud, abuse, or gross mismanagement
- vi. Discrimination against an employee on the basis of race, color, creed, religion, age, disability, national origin, sex, political affiliation, marital status, union affiliation, genetic information, veterans' status, or disabled veterans' status.

(d) Not everything is grievable. The County retains the exclusive right to manage the affairs and operation of the County government, so the following complaints are nongrievable:

- i. Establishment and revision of wages or salaries, position classifications or general benefits
- ii. Work activity accepted by the employee as a condition of employment or work activity which may reasonably be expected to be a part of the job content
- iii. The contents of ordinances, statutes or established personnel policies, procedures, rules and regulations
- iv. Failure to promote, except where the employee can show that established promotional policies or procedures were not followed or applied fairly
- v. The methods, means and personnel by which work activities are carried on
- vi. Termination, layoff, demotion or suspension from duties because of lack of work, reduction in work force or job abolition, unless such action would affect an employee who has been reinstated within the previous six (6) months as the result of the final determination of a grievance. If the grievance is by an employee who has been reinstated as provided herein, then any such termination, layoff, demotion, or suspension, shall be upheld if the County shows that there was a valid business reason for the decision and that the affected employee was notified of the reason in writing prior to the effective date of the action
- vii. The hiring, promotion, transfer, assignment and retention of employees
- viii. The relief of employees from duties of the County in emergencies

(e) Decisions regarding access to the grievance procedure, and decisions regarding the grievability of any complaint shall be made by the County Administrator at any time prior to the panel hearing, at the request of the County or the grievant, within ten (10) calendar days of the request. A copy of the ruling shall be sent to the grievant and to the grievant's Department Head.

(f) A decision of the County Administrator may be appealed to the Circuit Court of Smyth County for a hearing on the issue of whether the grievance qualifies for a panel hearing. Court proceedings shall be instituted by the grievant filing a notice of appeal with the County Administrator within ten (10) calendar days from the date of the grievant's receipt of the County Administrator's, and by the grievant giving a copy of the notice of appeal to all other parties. Within ten (10) calendar days of receipt of the notice of appeal, the County Administrator shall transmit to the Clerk of the Circuit Court of Smyth County, a copy of the decision, a copy of the notice of appeal, and any evidence or exhibits. A list of the evidence and exhibits furnished to the Court shall also be furnished to the grievant. The failure of the County Administrator or designee to transmit the record shall not prejudice the rights of the grievant. The court, on motion of the grievant, may issue a writ of certiorari requiring the County Administrator to transmit the record on or before a certain date.

(g) Within thirty (30) calendar days of receipt of such record by the Clerk, the Court, sitting without a jury, shall hear the appeal on the record transmitted by the County Administrator and the Court may also receive any other evidence the Court deems necessary to correct the record or resolve the controversy. The Court may affirm the decision appealed or may reverse or modify the decision. The Court shall render its decision no later than the fifteenth (15th) calendar day from the date of the conclusion of the hearing. The Court's decision is final and is not appealable.

(h) Any recording by tape or any other electronic means is strictly prohibited without the consent of both parties.

11.3 How to File a Grievance

(a) First Step:

This is the Discussion Stage, and is designed to provide for an informal, initial processing of employee complaints by an employee's immediate Department Head through a non-written, discussion format. The employee (grievant) shall verbally notify the Department Head of the complaint or grievance within 20 calendar days of the event which gives rise to the complaint. The Department Head shall meet with the employee within five (5) working days of notice of the complaint. The Department Head and employee shall discuss the complaint and try to resolve the matter.

(b) Second Step:

If a satisfactory resolution is not found at the Discussion Stage, the employee may advance the grievance to the second step by filing a written complaint on a form which is available from the Department of Human Resources. This written grievance must be filed with the Director of Human Resources no later than fifteen (15) calendar days after the meeting between the employee and the Department Head. The written grievance shall concisely state the nature of the complaint, the relevant factual information, and shall state what relief the employee seeks. Upon receipt of the grievance, the Director of Human Resources shall refer the grievance to the County Administrator, who shall make such investigation as he deems appropriate and shall respond, in writing, to the employee within ten (10)

calendar days of receipt of the written complaint. The response shall clearly and concisely state the Department Head's findings and determinations, as well as a response to the relief sought.

(c) Third Step:

If a satisfactory resolution is not achieved at the Second Step, then the grievant may advance the grievance to the Third Step, by filing a written request with the County Administrator, or, if the employee's job is with a Constitutional Officer whose employees are covered, then the grievance shall be advanced to the Constitutional Officer; if the employee is otherwise employed by the County, then the grievance shall be advanced to the County Administrator. The employee shall notify the officer or County Administrator as the case may be, within fifteen (15) calendar days of receipt of the Second Step response by delivering written notice as provided on the grievance form.

The County Administrator or Constitutional Officer shall respond, in writing, to the employee within ten (10) calendar days of receipt of the request for review of the grievance at the Third Step. The response of the County Administrator or Constitutional Officer (if applicable) shall clearly and concisely state the findings and determinations, as well as a response to the relief sought.

(a) Procedure for Second and Third Steps:

During the Second and Third Steps, the Department Head and the County Administrator reviewing the grievance shall meet to discuss the complaint and the relief sought.

During the Third Step meeting, the grievant, the grievant's Department Head, and any witnesses who may be requested by the employee or the employee's Department Head may be present. The grievant shall have the right to be represented by legal counsel or another representative of their choice. If the grievant is represented by counsel, the County shall also have the right to be represented by counsel or a representative of its choice.

After the initial filing of a written grievance, failure of either party to comply with all substantial procedural requirements of the grievance procedure, including the panel or administrative hearing referenced following below, without just cause, shall result in a decision in favor of the other party on any grievable issue, provided the party not in compliance fails to correct the noncompliance within five (5) workdays of receipt of written notification by the other party of the compliance violation. Such written notification by the grievant shall be made to the County Administrator. The County Administrator shall determine compliance issues. Compliance determinations made by the County Administrator shall be subject to judicial review by filing of a petition with the circuit court within 30 calendar days of the compliance determination.

11.4 Hearings

(a) A qualifying grievance may advance to a panel hearing if a satisfactory resolution is not achieved by the conclusion of the Third Step. The complaint to be heard by the panel shall be the same as stated in the employee's original written complaint and may not be amended or changed to bring in any new issues or complaints except by mutual consent of the grievant and the County. The employee must deliver the request for a panel hearing to the Director of Human Resources within fifteen (15) calendar days of receipt of receipt of the Step Three response.

(b) The Panel: The panel shall consist of three (3) members. One member shall be selected by the grievant, one member by the County, and the third member shall be selected by the other two members. If the two members have not selected a third panel member within ten (10) calendar days of the appointment of the second member, the County Administrator shall file a request with the Chief Judge of the Smyth County Circuit Court for the appointment of the third member. The third member shall be the Chairman of the panel. Panel members shall be impartial and shall base their decision on the evidence presented at the panel hearing.

(c) People Excluded from Serving on the Panel:

(1) Any person having a direct involvement with the grievance being heard or with the complaint or dispute giving rise to the grievance.

(2) Managers who are in the direct line of supervision of the grievant.

(3) Persons residing within the same household as the grievant.

(4) The following relatives of a participant in the grievance process or a participant's spouse: spouse, parent, child, descendants of a child, sibling, niece, nephew, and first cousin.

(5) An attorney having a direct involvement with the subject matter of the grievance, nor any partner, associate, employee or co-employee of such attorney.

(d) The panel does not have the authority to formulate policy or procedure, or alter existing policies or procedures. All relief granted must be consistent with existing policies and procedures.

(e) Procedure for the Hearing:

(1) The hearing shall be limited to those issues and the controversy raised in the initial written grievance unless both parties agree that other issues should be heard to afford complete relief. Also, the panel may not consider new issues on its own motion without the consent of both parties.

(2) All evidence shall be presented in the presence of the panel and the parties except by mutual consent of the parties and the panel. Both the grievant and the respondent may call upon appropriate witnesses and be represented by legal counsel or other representatives at the hearing. Such representatives may examine, cross-examine, question and present evidence on behalf of the grievant or respondent before the panel.

(3) The usual order shall be for the grievant to present the case first, but the panel may change the order of presentation if it deems it appropriate.

(4) After the evidence of the first to proceed, the other party shall present its evidence. The first party may present rebuttal evidence, but such rebuttal evidence shall be limited to the issues raised in the first presentation and the response.

(5) All testimony shall be under oath administered by the chairman of the panel.

(6) The County Administrator shall provide the panel members with copies of the grievance record prior to the hearing. The County Administrator shall provide the grievant with a list of the documents furnished to the panel, and the grievant and his/her attorney, at least 10 calendar days prior to the scheduled hearing, shall be allowed access to and one copy of each document intended to be used by the County in the grievance proceeding, free of charge. The applicant may inspect and obtain copies of his/her own personnel records, and other public records, in accordance with the Virginia Freedom of Information Act, and may be required to pay the actual cost thereof.

The grievant and the County shall exchange documents, exhibits and lists of witnesses to be used at the hearing, in advance of the hearing.

(7) The panel shall make all decisions concerning the admissibility of evidence; keeping in mind the purpose of the panel hearing is to have a full consideration of the grievance. Strict rules of evidence need not be followed, but evidence should be confined to the issues raised by the grievance.

(8) The panel shall determine the propriety of attendance of persons not having a direct interest in the hearing, and, at the request of either party, the hearing shall be private.

(9) Either party shall have the right to have the proceedings before the panel recorded by a Court reporter or notary public who shall be sworn to faithfully report the proceedings by the chairman.

(10) All matters shall be decided by majority vote of the panel.

(f) The Decision:

(1) The panel shall make its decision within five (5) working days of the last day of the panel hearing. The decision shall be by majority vote and shall be reduced to writing by the Chairman and signed by the panel members.

(2) The majority decision of the panel, acting within the scope of its authority, shall be final, subject to existing policies, procedures and law.

(3) The question of whether the relief granted by the panel is consistent with written policy shall be determined by the County Administrator, unless he has a direct personal involvement with the event or events giving rise to the grievance, in which case the decision shall be made by the Attorney for the Commonwealth. Notwithstanding the foregoing, a final hearing decision which would result in the reinstatement of any employee of a sheriff's office who has been terminated for cause may be reviewed by the Smyth County Circuit Court upon the petition of the County. The Circuit Court's review of the decision shall be limited to the question of whether the decision of the panel was consistent with provisions of law and written policy.

(4) Either party may petition the Smyth County Circuit Court for an order requiring implementation of the hearing decision.

AMENDMENTS

When, in the opinion of the County Administrator, reasonable change has occurred to warrant an amendment to this Manual, such an amendment will be made with the approval of the Smyth County Board of Supervisors. The Board of Supervisors may direct the County Administrator to review these policies and recommend changes. No change to these policies may be made without being reviewed by the County Administrator.

The Human Resource Director shall disseminate copies of any amendments to these policies to all employees of the Administrative Division of the County. Failure of any employee to receive written notice of amendments shall not relieve the employee of responsibility for compliance with any amendments.

If, in the opinion of the County Administrator, circumstances arise where an immediate change to these policies is needed, the County Administrator is empowered to prepare and disseminate an interim amendment. The County Administrator shall bring the circumstances to the attention of the Smyth County Board of Supervisors and recommend an amendment changing the policy. The most current policy manual supersedes all previous versions.

EMPLOYEE ACCEPTANCE

I, _____, hereby acknowledge receipt of a copy of the Smyth County Personnel Manual and Grievance Procedures. I hereby agree that it is my responsibility to read and familiarize myself with its provisions. I further understand Smyth County is an at-will employer and this manual **is not a contract**. I understand that my failure to comply with the rules, regulations, policies and procedures set forth within this manual, during the term of my employment, may result in disciplinary action, up to and including termination of my employment. In addition, the Smyth County Board of Supervisors reserves the right to make amendments to any provisions in this policy manual. I understand an electronic version of this Manual is available online on the employee link at www.smythcounty.org.

Employee

Date

Department Head's Name

Date