

FORSYTH COUNTY
BOARD OF COMMISSIONERS

**BRIEFING
DRAFT**

MEETING DATE: JUNE 21, 2018 AGENDA ITEM NUMBER: 5

**SUBJECT: ORDINANCE REVISING CHAPTER 16 OF THE FORSYTH COUNTY CODE
ENTITLED "HUMAN RESOURCES"
(FORSYTH COUNTY ATTORNEY'S OFFICE)**

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:

SUMMARY OF INFORMATION:

ATTACHMENTS: YES NO

SIGNATURE: _____ DATE: _____
COUNTY MANAGER

**ORDINANCE REVISING CHAPTER 16
OF THE FORSYTH COUNTY CODE ENTITLED
"HUMAN RESOURCES"
(FORSYTH COUNTY ATTORNEY'S OFFICE)**

BE IT ORDAINED by the Forsyth County Board of Commissioners that Chapter 16 of the Forsyth County Code, entitled, "Human Resources" consisting of Sections 16-1 through 16-79, is hereby revised as shown in the attached Sections 16-1 through 16-79.

WHEREAS, all previous Resolutions applicable to the adoption of an amended Chapter 16 "Human Resources" are repealed effective upon the adoption date of this amended Chapter 16 "Human Resources";

BE IT FURTHER ORDAINED that this ordinance shall become effective July 1, 2018.

Adopted this 21st day of June 2018.

Chapter 16

HUMAN RESOURCES*

* **Editors Note:** Ord. No. 6-99, § 1, adopted Dec. 20, 1999, retitled Ch. 16 "Human Resources," thus breaking the alphabetical sequence of chapter titles within the Code. Ord. No. 2-2002, §§ 1--5, adopted Dec. 16, 2002, amended Ch. 16 by deleting, amending and replacing the section analysis at the beginning of the chapter in its entirety; by deleting Art. I, containing general provisions, §§ 16-1--16-12, and replacing such article with §§ 16-1--16-6; by deleting Art. IV, Holidays and leaves, §§ 16-56--16-67, and replacing such article with §§ 16-56--16-59; by deleting Art. V, Dismissals, suspensions and demotions, §§ 16-78--16-83, and replacing such article with §§ 16-78, 16-79; and by deleting Art. VI, Regulation of conduct, §§ 16-95--16-101. For a complete derivation of these provisions, see the Code Comparative Table at the back of this volume.

Cross References: County employees retirement plan, App. A (note).

State Law References: County personnel generally, G.S. § 153A-92 et seq.; authority of board to prescribe personnel policies, G.S. 153A-94.

Article I. In General

Sec. 16-1. Personnel policies.

Sec. 16-2. Appointments generally.

Sec. 16-3. Report of appointments.

~~Sec. 16-4. Residency requirement.~~

Sec. 16-5. Political activities generally.

Sec. 16-6. Required leave of absence when running for office.

Secs. 16-7--16-20. Reserved.

~~Article II. Position classification plan~~

~~Sec. 16-21. Adopted.~~

~~Sec. 16-22. Coverage; allocation of positions.~~

~~Sec. 16-23. Administration and maintenance; reallocation of positions.~~

~~Sec. 16-24. Classification of new positions.~~

~~Sec. 16-25. Distribution and filing of copies.~~

~~Secs. 16-26--16-36. Reserved.~~

~~Article III. Pay Plan~~

~~Sec. 16-37. Adopted.~~

~~Sec. 16-38. Amendments.~~

~~Sec. 16-39. Starting salary.~~

~~Sec. 16-40. Salary of trainee.~~

~~Sec. 16-41. Repealed.~~

~~Sec. 16-42. Earned salary increment.~~

~~Sec. 16-43. Pay periods.~~

~~Secs. 16-44--16-55. Reserved.~~

~~Article IV. Holidays and Leaves~~

~~Sec. 16-56. Holiday leave.~~

~~Sec. 16-57. Annual leave.~~

~~Sec. 16-58. Reserved.~~

~~Sec. 16-59. Paid sick leave generally.~~

~~Secs. 16-60--16-77. Reserved.~~

~~Article V. Dismissals, Suspensions and Demotions~~

~~Sec. 16-78. Generally.~~

~~Sec. 16-79. Report of dismissals.~~

ARTICLE I.

IN GENERAL

Sec. 16-1. Authority of county manager; personnel policies; effect of personnel policies on legal entitlements.

The County Manager shall have the authority and duty to establish policies, regulations and procedures for the effective administration of the personnel system. The County Manager may establish such policies, regulations and procedures either upon the recommendation of the Human Resources department or unilaterally, but at all times subject to the terms of this chapter and in accordance with future policy directives of the Board of County Commissioners, and provided, further, that the County Manager must consult with the Board of County Commissioners before adopting a policy, regulation and/or procedure which could have a significant financial and/or budgetary impact on the county. For purposes of this section, the County Manager's authority to establish policies, regulations and procedures shall specifically include, without limitation, the authority to establish a workweek for county employees and to determine paid leave and all other benefits to be made available to county employees. Once adopted by the County Manager, all personnel policies and procedures shall be on file and available for inspection in the Human Resources department and in the office of the Clerk to the Forsyth County Board of County Commissioners. No property rights with regard to employment, benefits, discipline or termination are conferred by, or should be inferred from, personnel policies or procedures, employee handbooks or other statements of administrative procedure unless such rights are specifically and explicitly included in this chapter.

(Res. of 12-3-62, Art. III, § 2; Ord. No. 6-99, § 3, 12-20-99; Ord. No. 2-2002, § 2, 12-16-02)

State Law References: Similar provisions, G.S. § 153A-82(1).

Sec. 16-2. Appointments generally.

The County Manager shall appoint subordinate officers, agents and employees for the general administration of county affairs, the positions and compensation for whom have been established by the Board of County Commissioners, except such officers, agents and employees as are required to be elected by popular vote or whose appointment is otherwise provided for by law.

(Res. of 12-3-62, Art. III, § 1; Ord. No. 2-2002, § 2, 12-16-02)

State Law References: Authority to require report of appointments, G.S. § 153A-82(1).

Sec. 16-3. Report of appointments.

The County Manager shall report all appointments to positions with the county government monthly at a meeting of the Board of County Commissioners.

(Res. of 12-3-62, Art. III, § 2; Ord. No. 7-82, § 1, 2-22-82; Ord. No. 6-99, § 4, 12-20-99; Ord. No. 2-2002, § 2, 12-16-02)

~~Sec. 16-4. Residency requirement.~~

~~—(a)— Except as otherwise provided, no person shall be eligible to hold any department head, deputy county manager, or assistant county manager position, or any office or position which must be filled by the action of the Board of County Commissioners unless that person is a resident of~~

~~Forsyth County, or becomes a resident thereof within a reasonable time, but in no event more than one hundred eighty (180) days after the effective date of the appointment. This provision shall not apply, however, to any person appointed prior to the effective date of this section and residing at that date outside Forsyth County. Failure to comply with the residency requirement shall result in the loss of county employment at the end of the one hundred eighty-day period. Continued residency in the county is a requirement of employment. The Board of County Commissioners may grant hardship exceptions to the residency requirement, upon recommendation of the County Manager.~~

~~(b) This section is not intended to limit or restrict the area of recruitment for County personnel, it being the desire of the Board of County Commissioners that the best qualified personnel available should be sought for positions in County employment.~~

~~(c) This section shall not apply to City of Winston-Salem employees who may become County employees on account of any consolidation of services, until two (2) years following the date of said consolidation.~~

~~(Res. of 12-3-62, Art. III, § 3; Ord. No. 6-99, § 5, 12-20-99; Ord. No. 2-2002, § 2, 12-16-02)~~

Sec. 16-5. Political activities generally.

(a) No employee of the county shall:

- (1) Engage in any political activity while on duty or within any period of time during which he is expected to render services for which he receives compensation from the County;
- (2) Be required, as a duty of his office or employment, or as a condition for employment, promotion or tenure of office, to contribute funds for political or partisan purposes;
- (3) Solicit, or act as custodian of, funds for political or partisan purposes while on duty as an employee of the County;
- (4) Coerce or compel contributions for political or partisan purposes by any other employee of the governmental unit; or
- (5) Use any supplies or equipment of the governmental unit for political purposes.

(b) All constitutional and elected officers are exempt from this entire section, but no such constitutional or elected officers are to use any public funds, goods, supplies or materials for partisan political purposes.

(Res. of 12-3-62, Art. IV, § 8; Ord. No. 6-99, § 6, 12-20-99; Ord. No. 2-2002, § 2, 12-16-02)

Sec. 16-6. Required leave of absence when running for office.

Any nonelected County official or employee who becomes a candidate for public elective office shall be required to take a leave of absence without pay or take annual leave one (1) month preceding the primary, if the official or employee is a candidate in the primary, and if successful in the primary, or not subject to the primary, to take a leave of absence without pay or take annual leave for

one (1) month preceding the general election.

(Res. of 12-3-62, Art. III, § 4; Ord. No. 10-75, § 1, 12-1-75; Ord. No. 6-94, § 1, 8-22-94; Ord. No. 2-99, § 1, 1-25-99; Ord. No. 6-99, § 7, 12-20-99; Ord. No. 2-2002, § 2, 12-16-02)

Secs. 16-7--16-20. Reserved.

~~ARTICLE II.~~

POSITION CLASSIFICATION PLAN

~~Sec. 16-21. Adopted.~~

~~The position classification plan, as approved and determined by the State Personnel Commission on March 13, 2007, to be substantially equivalent to the standards established under chapter 126 of the North Carolina General Statutes for employees of the Forsyth County Department of Social Services and the Forsyth County Health Department, and further as adopted by Resolution of the Forsyth County Board of Commissioners on August 13, 2007, is hereby adopted as the classification plan for the county.~~

~~(Res. of 12-3-62, Art. I, § 1; Ord. No. 3-2007, 8-13-07)~~

~~State Law References: Authority to adopt position classification plan, G.S. § 153A-92(a).~~

~~Sec. 16-22. Coverage; allocation of positions.~~

~~The classification plan adopted by this article shall include all full time and part time classes of positions in the county's service. The county manager shall allocate each position covered by the classification plan to its appropriate class.~~

~~(Res. of 12-3-62, Art. I, § 2; Ord. No. 2-99, § 5, 1-25-99)~~

~~Sec. 16-23. Administration and maintenance; reallocation of positions.~~

~~The county manager shall be responsible for the administration and maintenance of the position classification plan adopted by this article. Department heads shall be responsible for bringing to the attention of the county manager any material change in the nature of duties, responsibilities, working conditions and other factors affecting the classification of any position. Following the receipt of such information concerning any position, the county manager, or his authorized agent, shall then restudy the position and determine if the classification of the position should be changed. Authority to reallocate positions to classes on the basis of kind and level of duties and responsibilities is vested in the board of county commissioners, based on a recommendation from the county manager.~~

~~(Res. of 12-3-62, Art. I, § 3)~~

~~State Law References: Responsibilities of county manager relative to position classification plan, G.S. § 153A-~~

¹ **Articles II through V:** While "the employment at will presumption applies to both public- and private-sector employment" [Fleming and Wicker, eds., *County Government in North Carolina* (4th ed., 1998)], many specialists in government-employment law severely caution against having personnel policies codified, due to the danger of a local government creating legal obligations (particularly due process) owed to employees insofar as following procedures for disciplining or firing employees is concerned, and possibly creating a constitutionally protected property right to employment; see, e.g. *Woods v. City of Wilmington*, 480 S.E.2d 429 (N.C.App., 1997).

92(c).

~~Sec. 16-24. Classification of new positions.~~

~~The county manager shall be responsible for studying and making recommendations for the allocation of new positions to the existing classes or to new classes of positions in the county's service. The county manager shall report his recommendations concerning the allocation of new positions to the board of county commissioners for its approval.
(Res. of 12-3-62, Art. I, § 4)~~

~~Sec. 16-25. Distribution and filing of copies.~~

~~Copies of the classification plan adopted by this article and any amendments thereto, shall be furnished to members of the board of county commissioners and to department heads, and shall be on file in the office of the county manager, the human resources director, the chief financial officer and the clerk to the board of county commissioners.
(Res. of 12-3-62, Art. I, § 3; Ord. No. 7-82, § 1, 2-22-82; Ord. No. 6-99, § 4, 12-20-99; Ord. No. 3-2007, 8-13-07)~~

~~Secs. 16-26--16-36. Reserved.~~

~~ARTICLE III.~~

~~PAY PLAN~~

~~Sec. 16-37. Adopted.~~

~~The Schedule of Class Titles and Market Rates Assigned to Class Titles, as approved by the board of county commissioners, are hereby adopted as the pay plan, which includes the schedule of pay and other compensation for the county.
(Res. of 12-3-62, Art. II, § 1; Ord. No. 3-2007, 8-13-07)~~

~~Sec. 16-38. Amendments.~~

~~Each year, prior to the adoption of the annual budget, the county manager shall, if possible, secure information concerning the general level of salaries and wages paid in private industry in the area, and the salaries paid comparable state and municipal employees. Based on his findings and the general financial condition of the county, the county manager shall recommend increases, reductions or amendments of the pay plan to the board of county commissioners for its consideration. The annual budget adopted by the board of county commissioners, and any amendments thereto, together with the authorized appropriation, shall constitute the approval of amendments to the pay plan by the board of county commissioners.
(Res. of 12-3-62, Art. II, § 2; Ord. No. 3-2007, 8-13-07)~~

~~State Law References: Board to fix or approve pay schedules, expense allowances and other compensation of county employees, G.S. § 153A-92(a); responsibilities of county manager relative to pay plan, G.S. § 153A-92(c).~~

~~Sec. 16-39. Starting salary.~~

~~All new employees shall be appointed within a hiring range, which has been established for the classification in which they are employed. Any department head desiring to appoint an applicant at a starting salary above the hiring range must submit a written explanation to the county manager for his approval, enumerating the reasons why the applicant should be appointed at a salary above the hiring range. Only applicants of exceptional experience or training shall be considered for appointment at starting salaries above the hiring range, and the county manager shall report all such appointments to the board of county commissioners monthly at a meeting, subject to the board's prior appropriation of additional funds, if necessary.~~

~~(Res. of 12-3-62, Art. II, § 4; Ord. No. 3-2007, 8-13-07)~~

~~Sec. 16-40. Salary of trainee.~~

~~When the county manager deems it appropriate, applicants or employees, who do not meet all of the established requirements of the position, may be appointed by the county manager at a "training" salary below the hiring range. Employees in a "trainee" status shall continue to receive a reduced salary until the department head and the human resources director determine that the trainee is qualified to assume the full responsibilities of the position.~~

~~(Res. of 12-3-62, Art. II, § 5; Ord. No. 8-82, § 1, 3-8-82; Ord. No. 6-99, § 4, 12-20-99; Ord. No. 3-2007, 8-13-07)~~

~~Sec. 16-41. Repealed.~~

~~Editors Note: Ord. No. 3-2007, adopted Aug. 13, 2007, repealed § 16-41, which pertained to salary upon reinstatement and derived from Res. of 12-3-62, Art. II, § 9; Ord. No. 2-99, § 6, 1-25-99.~~

~~Sec. 16-42. Earned salary increment.~~

~~Salary increases above the hiring salary shall be granted only in recognition of performance. The county manager shall, each year, include funds in the budget for providing earned salary increments. Insofar as practical, earned salary increments shall be granted among the departments on the same percentage basis as the total salaries of those employees eligible for earned salary increments in each department relate to the total salaries of all such eligible employees.~~

~~(Res. of 12-3-62, Art. II, § 6; Ord. No. 6-79, § 2, 11-19-79; Ord. No. 3-2007, 8-13-07)~~

~~Sec. 16-43. Pay periods.~~

~~All employees shall be paid in accordance with pay periods established by the county manager, subject to such limitations and procedures as the board of commissioners may prescribe.~~

~~(Res. of 12-3-62, Art. II, § 8; Res. of 6-3-74)~~

~~Secs. 16-44--16-55. Reserved.~~

~~Editors Note: Ord. No. 5-77, adopted June 6, 1977, repealed § 16-44, pertaining to payment by the finance director, derived from a resolution of Dec. 3, 1962.~~

~~ARTICLE IV.~~

~~HOLIDAYS AND LEAVES*~~

~~_____~~
~~_____~~
~~*~~ ~~State Law References: Authority of board to regulate holidays and leaves, G.S. § 153A-94.~~
~~_____~~
~~_____~~

~~**Sec. 16-56. Holiday leave.**~~

~~_____ (a) _____ All county employees will receive full pay for the following holidays:~~

~~New Year's Day~~

~~Martin Luther King, Jr.'s Birthday~~

~~Good Friday~~

~~Memorial Day~~

~~Independence Day~~

~~Labor Day~~

~~Thanksgiving Day~~

~~Christmas Day plus one and one-half (1 1/2) days selected by the county manager~~

~~An additional day selected by the county manager as a holiday.~~

~~_____ (b) _____ If a holiday falls on Saturday, the previous Friday will be observed; if on a Sunday, the following Monday will be observed. The Martin Luther King, Jr. Birthday holiday will be observed on the third Monday of January of each year.~~

~~_____ (c) _____ Employees required to work on an observed holiday shall receive an alternate day off with pay, on an hour-for-hour basis.
(Res. of 12-3-62, Art. IV, § 3; Res. of 1-3-66; Ord. No. 3-76, § 1, 2-16-76; Ord. No. 6-79, § 1, 11-19-79; Ord. No. 9-86, 3-24-86; Ord. No. 2-91, §§ 1, 2, 1-14-91; Ord. No. 5-91, § 1, 4-8-91; Ord. No. 7-93, §§ 1, 2, 11-8-93; Ord. No. 2-2002, § 3, 12-16-02)~~

~~**Sec. 16-57. Annual leave.**~~

~~County employees will be provided paid annual leave as set forth in the applicable personnel policy established by the county manager.
(Res. of 12-3-62, Art. IV, § 2; Res. of 4-6-70; Ord. No. 2-76, §§ 1, 2, 2-16-76; Ord. No. 8-87, §§ 1, 2, 6-8-87; Ord. No. 1-88, §§ 1, 2, 2-8-88; Ord. No. 5-94, 5-23-94; Ord. No. 2-99, § 7, 1-25-99; Ord. No. 6-99, §§ 10, 11, 12-20-99; Ord. No. 2-2002, § 3, 12-16-02)~~

~~**Sec. 16-58. Reserved.**~~

~~_____ Editors Note: Ord. No. 1-88, § 3, adopted Feb. 8, 1988 repealed § 16-88, petty leave, derived from Art. IV, § 4 of a resolution adopted Dec. 3, 1962.~~

~~Sec. 16-59. Paid sick leave generally.~~

~~County employees will be provided paid sick leave as set forth in the applicable personnel policy established by the county manager.
(Res. of 12-3-62, Art. IV, § 5; Res. of 2-1-66; Ord. No. 4-80, § 1, 4-14-80; Ord. No. 8-82, § 1, 3-8-82; Ord. No. 2-93, § 2, 8-9-93; Ord. No. 2-99, §§ 8, 9, 1-25-99; Ord. No. 6-99, §§ 12-14, 12-20-99; Ord. No. 2-2001, 8-13-01; Ord. No. 2-2002, § 3, 12-16-02)~~

~~Secs. 16-60–16-77. Reserved.~~

~~ARTICLE V.~~

~~DISMISSALS, SUSPENSIONS AND DEMOTIONS~~

~~Sec. 16-78. Generally.~~

~~The county manager may demote, dismiss and suspend any officer, agent or employee the county manager may appoint. For those departments over which the county manager has such appointing authority, the county manager may delegate to the department heads the authority to demote, dismiss and suspend the employees within their department. If delegated such authority by the county manager, the department heads shall not demote, dismiss or suspend an employee without having first fully consulted with the human resources director. Appeals of such personnel actions shall be heard in accordance with any applicable personnel policies.~~

~~(Res. of 12-3-62, Art. III, § 7; Ord. No. 6-94, § 2, 8-22-94; Ord. No. 2-2002, § 4, 12-16-02)~~

~~State Law References: Authority of county manager to suspend and remove officers and employees, G.S. § 153A-82(1).~~

~~Sec. 16-79. Report of dismissals.~~

~~Upon the dismissal or removal of any officer, employee or agent, the county manager shall report the same monthly at a meeting of the board of county commissioners.~~

~~(Res. of 12-3-62, Art. III, § 7; Ord. No. 2-2002, § 4, 12-16-02)~~

~~State Law References: Authority to require report of dismissals, G.S. § 153A-82(1).~~

~~Note: See the editor's footnote to the chapter title.~~