

The City of Asheville Board of Alcoholic Control Personnel Manual

Article 1. General Provisions

Section 1. Purpose of Personnel Manual

The City of Asheville Board of Alcoholic Control (hereinafter “ABC Board”) Personnel Manual is intended to establish a personnel system that will help to recruit, select, develop and maintain an effective and responsible workforce. This Personnel Manual is for informational purposes only, and is meant to be a guide to ABC Board employees (hereinafter “Employees” or individually “Employee”) and to inform Employees of policies, rules and requirements of the ABC Board. **This Personnel Manual is not a contract of employment.** All Employees are employees at will, and serve at the pleasure of the ABC Board, which means that Employees do not have a specific or defined term of employment or an expectation of continued or future employment.

Section 2. ABC Board Policy Manual

In addition to this Personnel Manual, the ABC Board maintains a separate “**Policy Manual**” outlining specific work and operation policies, and each work area within the ABC Board system (hereinafter “ABC System”) may have specific operational practices and procedures that guide an Employee’s work.

Section 3. Responsibility of General Manager

The General Manager of the ABC System will administer the affairs of the ABC Board within the authority granted by the Members of the ABC Board (hereinafter “Local Board”). The General Manager will be responsible for assisting in the preparation and maintenance of the Position Classification and Pay Plan, and will perform such duties in connection with a modern personnel program, as adopted. The General Manager will prescribe the office hours, workdays and holidays to be observed. All matters dealing with personnel will be routed to the General Manager, who will maintain a complete system of personnel files and records. The General Manager may perform any or all of these duties and responsibilities or assign them to Employees at his/her discretion.

Section 4. Application of Personnel Manual

This Personnel Manual applies to all Employees of the ABC Board regardless of classification, unless specifically exempted herein. The policies and procedures described herein supersede all prior handbooks, memoranda or policies that conflict with what is contained herein.

Section 5. Modification of Personnel Manual

This Personnel Manual is not a binding contract, but merely a set of guidelines for the implementation of personnel policies. The ABC Board explicitly reserves the right to modify any of the provisions of this Personnel Manual at any time and without any notice to Employees. Further, this Personnel Manual shall be amended if mandated or required by the United States of America, the State of North Carolina, the North Carolina Alcoholic Beverage Control Commission (“Commission”), or any of their respective agencies, departments, commissions, divisions, or subdivisions, or by any applicable rule, law, ordinance, regulation, circular,

directive, or order, of if necessary to bring this Personnel Manual into compliance with any applicable law, ordinance, regulation, circular, directive or order (including, but not limited to, making the effective dates of any amendments retroactive).

Section 6. Personnel Data Changes

It is the responsibility of each Employee to promptly notify the ABC Board of any changes to his/her personnel data. By way of example only, changes to any of the following should be reported: personal mailing addresses, telephone numbers, number and names of dependents, individuals to be contacted in the event of an emergency, and educational accomplishments.

Section 7. Access to Personnel Files

The ABC Board maintains a Personnel File for each Employee. The Personnel File includes, by way of example only, such information as the Employee's job application, resume, records of training, documentation of performance appraisals, salary increases, and personnel actions.

Personnel Files are the property of the ABC Board, and access to the information they contain is restricted. Generally, only supervisors and management personnel of the ABC Board who have a legitimate business reason to review information in the Personnel File are authorized to do so.

Employees who wish to review their own Personnel File should contact the General Manager. Employees may review their own Personnel Files in the ABC Board's offices and in the presence of an individual appointed by the ABC Board.

An Employee who objects to material contained in his or her Personnel File may place a statement in the Personnel File relating to the specific material he or she considers objectionable. The Employee may also seek the expungement of such material in accordance with the Grievance Procedures contained herein.

Article 2. Employment Policies

Section 1. Employment at Will Policy

The employment relationship between the ABC Board and all Employees is terminable at the will of either at any time, with or without cause, and with or without notice. No Employee, officer, agent or representative of the ABC Board has any authority to enter into an agreement or representation, verbally or in writing, which alters, amends, or contradicts this provision or other provisions in these policies. Any exception to this policy of "at will" employment must be expressly authorized in writing, approved by the Local Board and executed by the officers designated by them.

None of the benefits or policies set forth in this Personnel Manual is intended to confer any rights or privileges upon Employees or to entitle them to be or remain employed by the ABC Board. The contents of this document and procedure herein are presented as a matter of information. They do not alter the employment at will status and are not conditions of employment. Notwithstanding any of the provisions within these policies, employment may be terminated at any time, either by the Employee or by the ABC Board with or without cause and with or without advance notice.

Section 2. Equal Employment Opportunity Policy

a. Discrimination Policy. It is the established policy of the ABC Board to provide equal employment opportunities to all employees and applicants for employment and to not discriminate against any individual on the basis of race, color, religion, sex, national origin, age or disability in accordance with federal law. In addition, the ABC Board complies with any applicable state and local laws prohibiting discrimination in employment. This policy applies to all terms and conditions of employment, including, but not limited to, hiring, placement, promotion, termination, layoff, recall, transfer, leaves of absence, compensation and training.

The ABC Board expressly prohibits any form of unlawful Employee harassment based on race, color, religion, sex, national origin, age or disability; and improper interference with the ability of its Employees to perform their expected job duties is not, and will not be, tolerated. The ABC Board specifically prohibits offensive comments, jokes, or innuendos directed toward protected characteristics, including, but not limited to, comments of a racially offensive nature.

The General Manager and each member of management is responsible for creating an atmosphere free of discrimination and harassment. Further, Employees are responsible for respecting the rights of their co-workers. All personnel responsible for recruitment and employment will regularly review the implementation of this policy and relevant practices to assure that equal employment opportunity based on reasonable performance-related job requirements is being actively observed. It is the General Manager's responsibility to insure compliance and make recommendations for actions to bring the organization into compliance.

b. Disability Policy. The ABC Board provides reasonable accommodations for qualified individuals with disabilities in accordance with the Americans with Disabilities Act (ADA), as amended. Employees who are a qualified individual with a disability covered by the ADA, as amended, and/or by any other applicable federal, state or local disability laws, and who require reasonable accommodations should notify the General Manager of the ABC Board. The General Manager will review the request and determine whether or not the requested accommodation is reasonable, or whether an alternative accommodation should be offered. It is the Employee's responsibility to notify the ABC Board of the need for a reasonable accommodation and to provide medical documentation upon request.

c. Sexual Harassment Policy. It is the policy of the ABC Board to strictly prohibit sexual harassment in any form. For purposes of this Section, sexual harassment shall mean:

- Unwelcome sexual advance(s); request(s) for sexual favors; and all other verbal or physical conduct of a sexual or otherwise offensive nature, particularly where: submission to such conduct is made either explicitly or implicitly a term or condition of employment; submission to or rejection of such conduct is used as the basis for decisions affecting an individual's employment; or such conduct has the purpose or effect of creating an intimidating, hostile or offensive working environment.

By way of example only, the following are prohibited forms of sexual harassment:

- **Verbal:** Graphic or sexually suggestive words, comments and innuendos; sexual advances or propositions; making or using derogatory comments, epithets, slurs, or jokes; propositions, threats, suggestive or insulting sounds or obscene language, offensive voicemail messages; questions about another's sex life or experiences; repeated unwelcome requests for dates; verbal commentaries about an individual's

body; sexually degrading words used to describe an individual, or suggestive or obscene letters, notes, or invitations;

- **Visual/Non-Verbal:** Displaying of sexually suggestive objects or pictures, cartoons or posters; derogatory posters, cartoons or drawings;
- **Physical:** Unwanted physical contact including, by way of example only, touching, grabbing, leering, making sexual gestures, groping, fondling, impeding or blocking movements, or assault; and
- **Other:** Offering employment benefits in exchange for sexual favors; Making or threatening reprisals after a negative response to sexual advances; threatening, demanding or suggesting that an Employee's work status is contingent upon his or her toleration of, or acquiescence to, sexual advances.

For purposes of this Section, sexual harassment includes gender-based harassment of a person of the same sex as the harasser.

d. Complaint Procedure. An Employee should immediately report to their supervisor any unlawful harassment in the workplace, whether such harassment is on the basis of race, color, religion, sex, national origin, age, or disability. If an Employee prefers not to report the allegation to his or her supervisor, he or she may report the matter directly to the General Manager or to a Member of the Local Board. If the allegation involves one of the supervisory personnel mentioned above, that person will be excluded from the chain of authority and will participate in the investigation only as a witness. Complaints will be kept confidential to the extent reasonably possible.

All supervisors are specifically directed to report any complaints or allegations of sexual or other harassment to the General Manager, or, if the allegations involve the General Manager, directly to a Member of the Local Board. Supervisors are further specifically directed to report any such matters of which they have knowledge, whether that knowledge was gained directly because of an Employee complaint, or through observation, or through the report of an otherwise uninvolved Employee. The General Manager, or his or her designee, will determine whether further investigation or action is required after such a report has been made. If the General Manager, or his or her designee, determines that an Employee is guilty of harassing another Employee, appropriate disciplinary action will be taken against the offending Employee.

e. Retaliation and False Claims. The ABC Board prohibits any form of retaliation against any Employee for filing a bona fide complaint under this Section or for assisting in the investigation of a complaint. However, if after investigating any claim of harassment or unlawful discrimination, the ABC Board determines that the complaint is not bona fide, or that an Employee has knowingly provided false information regarding the complaint, disciplinary action may be taken against the individual who filed the complaint or who gave the false information.

Section 3. Commencement of Employment

a. Recruitment. All opportunities for employment except those positions that will be filled from within will be publicized. Information on job openings and hiring practices may be provided to recruitment sources including organizations and various media serving the appropriate labor market.

b. Job Announcements. Employment announcements will contain an assurance of equal employment opportunity and will comply with federal and state statutes regarding discrimination in employment matters.

c. Applications for Employment. All persons expressing interest in employment with the ABC Board will be given the opportunity to file an application for employment when a position is vacant or when the ABC Board is advertising to fill a position. Applications will remain active only for the available vacant position.

d. Age. In accordance with North Carolina law, any person employed by the ABC Board will be at least 18 years of age, unless waived by the Commission.

e. Applicant Drug Testing. All applicants must undergo a pre-employment drug-screening test. Failure by the Employee to cooperate in such a test will result in the withdrawal of the ABC Board's offer of employment.

f. Hiring Process The ABC Board relies upon the accuracy of information contained in the employment application, as well as the accuracy of other data presented throughout the hiring process and employment. Any misrepresentations, falsification or material omissions in any of this information or data may result in the exclusion of the individual from further consideration for employment or, if the person has been hired, termination of employment.

It is the ABC Board's policy to create career opportunities for its Employees when possible. Therefore, when a current Employee applying for a vacant position possesses the best qualifications of all applicants, that applicant will be appointed to that position. However, if other applicants possess comparable qualifications, the General Manager will carefully consider the qualifications, abilities and skill sets of applicants in filling the position. To ensure that individuals are well qualified and have a strong potential to be productive and successful, it is the policy of ABC Board to check the employment references of applicants.

g. Credit Report. In processing employment applications and making employment decisions, the ABC Board may obtain a credit report for employment purposes only concerning credit worthiness, credit standing, and credit capacity. The ABC Board will comply with the Fair Credit Reporting Act, as applicable.

h. Background Checks. A background check will be made of any person offered conditional employment with the ABC Board. The ABC Board will comply with the Fair Credit Reporting Act, as applicable.

A criminal background check will consist of a review of national criminal records to include any and all convictions and/or charges, felonies, misdemeanors, and traffic violations. In addition, a United States National Sex Offender Registry search will be conducted. Maiden names will also be checked.

The evaluation and final determination to qualify/disqualify a background check will be made by the Chief Law Enforcement Agent, under the direction and final authority of the General Manager. Disqualifying information is identified based upon the nature of convictions/charges versus the essential functions in the job and the associated risks, dates of convictions/charges, and the candidate's record since the date of the conviction. Professional discretion and consistent application will be used to ensure that only job-related disqualifications occur. By way

of example only, disqualifying criteria includes: embezzlement or fraud conviction of an accountant applicant, or a sexual harassment judgment. Based on the severity of convictions/charges, offenses seven years or older may be eliminated from the disqualification criteria. The General Manager will be the final decision maker for all Employees.

Background checks will be conducted to provide for fair and unbiased treatment regardless of gender, race, color, disability, national origin, marital status, religion, or other protected class of a candidate. In its application of this Section, the ABC Board will also comply with the Americans with Disabilities Act, Equal Employment Opportunity Commission guidance, and other federal and state laws, as amended. Employees will be notified in writing of any criminal convictions/charges revealed by the background check.

Evidence that a check was conducted, date and type of background check, and sufficient record of a disqualifying outcome will be maintained. A copy of the disqualification notification to the applicant and the background check record will be retained in the position vacancy file. Evidence of a background check that results in an Employee being approved for hire and Employee checks will be filed separate from their personnel file. However, background information that includes infractions, and other personal information will not be retained beyond its usefulness in approving the individual for employment, even if such information is favorable to the Employee unless a specific need for such records exists.

i. **Withdrawal of Offer of Employment.** In the event that disqualifying information is revealed in a credit report or during the background check process, applicants will be notified in writing that the conditional offer of employment is being withdrawn. If the ABC Board takes an adverse employment action based in whole or in part on the credit report, or the background check, a copy of the report and a summary of the Employee's rights under the Fair Credit Reporting Act will be provided as well as any other documents required by law.

Section 4. References

The General Manager will respond to all reference check inquiries from other employers. Responses to such inquiries will confirm only dates of employment, wage rates, and position(s) held. No other employment data will be released without a written authorization and release signed by the individual who is the subject of the inquiry.

Section 5. Employment Classifications

It is the intent of the ABC Board to clarify the definitions of employment classifications so that Employees understand their employment status and benefit eligibility. Consistent with federal and state wage and hour laws, each Employee is designated as either Non-exempt Employee or Exempt Employee based upon the job duties he or she performs and the method by which he or she is paid. These designations dictate an Employee's eligibility for overtime pay.

- **“Non-exempt Employee”** is one that is entitled to overtime compensation under the specific provisions of federal and state laws.
- **“Exempt Employee”** is one that is excluded from specific provisions of federal and state wage and hour laws, and is not entitled to overtime compensation.

In addition to the above categories, each Employee will belong to one other employment category:

- **“Full-time Employee”** is one who is not in a temporary status and who is regularly scheduled to work 40 or more hours per week. Generally, Full-time Employees are eligible for ABC Board’s benefit programs and subject to the terms, conditions, and limitations of each benefit program.
- **“Part-Time Employee”** is one who is not in a temporary status and who is regularly scheduled to work less than 40 hours per week. While Part-Time Employees do receive all legally mandated benefits (such as Social Security and workers’ compensation insurance), they are ineligible for the ABC Board’s other benefit programs, unless otherwise specified herein.
- **“Temporary Employee”** is one who is hired as an interim replacement to temporarily supplement the work force, or assist in the completion of a specific project. Employment assignments in this category are of a limited duration. Employment beyond any initially stated period does not in any way imply a change in employment status. Temporary Employees retain that status unless and until notified of a change. While Temporary Employees receive all legally mandated benefits (such as workers’ compensation insurance and Social Security), they are ineligible for all of ABC Board’s other benefit programs, unless otherwise specified herein.

Article 3. Payroll Policies

Section 1. Compensation

All Employees are classified by title and pay range and will be compensated in accordance with the **“Position Classification and Pay Plan”** adopted September 25, 2012, a copy of which is attached hereto as Addendum A. The Position Classification and Pay Plan is subject to amendment or elimination by the ABC Board. Full-time Employees hired after September 25, 2012 are not eligible for longevity pay; however, under the pay and compensation system, Full-time Employees who are hired below the mid-point of their respective pay range are eligible for pay ‘escalators’ (provided they have achieved a satisfactory annual review) until the mid-point of their pay is reached. All pay increases past the mid-point will be based on merit.

Section 2. Deductions.

ABC Board will deduct social security, federal and state income taxes and, if applicable, retirement, automatically from each Employee’s paycheck as authorized by law. In addition, other deductions that an Employee authorizes the ABC Board to make, such as payments for dependent insurance, will be withheld. All deductions from pay will be itemized on the Employee’s check stub or proof of direct deposit.

Section 3. Timekeeping

Accurately recording time worked is the responsibility of every Employee. Federal and state laws require organizations to keep an accurate record of time worked in order to calculate Employee pay and benefits. “Time worked” is all the time actually spent on the job performing assigned duties.

Non-exempt Employees should accurately record the time they begin and end their work, as well as the beginning and ending time for each meal period. They should also record the beginning and ending time of any split shift or departure from work for personal reasons.

Non-exempt Employees should report to work no more than 8 minutes prior to their scheduled starting time nor stay more than 8 minutes after their scheduled stop time unless expressly authorized by their supervisor.

It is every Employee's responsibility to sign their time records to certify the accuracy of all time recorded. The supervisor will review and initial the time record before submitting it for payroll processing. In addition, if corrections or modifications are made to the time record, both the Employee and the supervisor must verify the accuracy of the changes by initialing the changes on the time record.

Non-Exempt Employees must obtain approval in advance from their supervisors before working overtime. Overtime pay or compensatory time will be provided to all Non-exempt Employees in accordance with federal and state wage and hour regulations. Overtime pay and compensatory time are based on actual hours worked. Time off for sick and vacation leave, or any leave of absence, will not be considered hours worked for purposes of performing overtime or compensatory time calculations.

Employees are strongly encouraged to use compensatory time by the end of the pay period following the pay period in which it was earned. Compensatory time for certain non-exempt administrative staff and law enforcement agents will accrue and 'carry' no more than 20 hours (40 for law enforcement) unless waived by the General Manager. Non-exempt Employees who receive compensatory time in lieu of overtime compensation will review and sign the form "**Compensatory Time Off Agreement**", as amended. Accrued compensatory time will be used prior to the use of vacation or sick time. To assure full staff operations, Supervisors are authorized to determine when an Employee must take compensatory time off.

The alteration, falsification or tampering with time records constitutes graft and theft of public funds and may result in both termination from employment and criminal prosecution.

Article 4. Employee Benefits

Eligible Employees of the ABC Board are provided a wide range of benefits. A number of the programs (such as Social Security, workers' compensation, state disability, and unemployment insurance) cover all Employees in the manner proscribed by law. Benefits eligibility is dependent upon a variety of factors, including Employee classification. The following benefits programs are available to eligible Employees:

- * 401(k) Savings Plan
- * Bereavement Leave
- * Dental Insurance
- * Health Insurance
- * Life Insurance
- * Family and Medical Leave
- * Holidays
- * Military Leave
- * Retirement Benefits
- * 401K Plan & Law Enforcement Separation Allowance

- *Sick Leave
- *Vacation Leave
- *Civil Leave

All benefits referenced herein may be altered, changed, and/or eliminated from time to time in the future by the ABC Board, depending upon such things and matters as changes in the law, market conditions, the fiscal situation or condition of the ABC Board, changes in its personnel policies, and so forth.

Section 1. Health Insurance, Dental Insurance & Life Insurance

The ABC Board's health insurance plan provides Employees and their dependents access to medical and dental insurance benefits. The ABC Board also provides a life insurance benefit to eligible Employees. Only Employees in the following employment classifications are eligible to participate in the health insurance plan or to receive life insurance benefits:

- **Full-time Employees**

Eligible Employees may participate in the health insurance plan subject to all terms and conditions of the agreement between the ABC Board and the insurance carrier. The ABC Board pays a portion of the premium for health and dental insurance for eligible Employees and a portion of the premium for health and dental insurance for the dependents of eligible Employees.

Details of the health insurance plan are described in the "**Summary Plan Description**" (SPD). A SPD and information on cost of coverage will be provided in advance of enrollment to eligible Employees.

Basic life insurance is provided to each eligible Employee at no cost to the Employee.

A change in employment classification that would result in loss of eligibility to participate in the health insurance plan may qualify an Employee for benefits continuation under the consolidated Omnibus Budget Reconciliation Act (COBRA). Refer to the "**Benefits Continuation COBRA Policy**" for more information.

COBRA gives Employees and their qualified beneficiaries the opportunity to continue health insurance coverage under ABC Board's health plan when a "qualifying event" would normally result in the loss of eligibility. Some common qualifying events are resignation, termination of employment, or death of an Employee; a reduction in an Employee's hours or a leave of absence; an Employee's divorce or legal separation; and a dependent child no longer meeting eligibility requirements.

Under COBRA, the Employee or beneficiary pays the full cost of coverage at the ABC Board's group rates plus an administration fee. The ABC Board provides each eligible Employee with a written notice describing rights granted under COBRA when the Employee becomes eligible for coverage under ABC Board's health insurance plan. The notice contains important information about the Employee's rights and obligations.

Section 2. Retirement Benefits

The ABC Board provides retirement benefits for its Employees through the North Carolina Local Governmental Employees' Retirement System (NCLGERS). All Employees who are budgeted to work 1000 hours or more annually are required to join the NCLGERS retirement plan according to the NC General Statutes.

A booklet of information explaining the retirement system and benefits is available to all Employees. It is the Employee's responsibility to read and understand such benefits. The Employees of the administrative office will assist you should the need arise.

Section 3. 401K Plan & Law Enforcement Separation Allowance

The ABC Board provides a contribution to a 401K plan for active law enforcement personnel. The ABC Board also provides a monthly separation allowance to retired law enforcement officers as required in Chapter 143, Article 12E and Article 12D of the General Statutes of North Carolina.

Section 4. Workers' Compensation Benefits

The ABC Board provides a comprehensive workers' compensation benefits program at no cost to Employees. This program covers any eligible injury or illness sustained in the course of employment that requires medical, surgical, or hospital treatment. Subject to applicable legal requirements, workers' compensation insurance provides benefits after a short waiting period, or, if the Employee is hospitalized, immediately.

Employees who sustain work-related injuries or illnesses should inform their supervisor immediately. No matter how minor an on-the-job injury may appear, it is important that it be reported immediately. This will enable an eligible Employee to qualify for coverage as quickly as possible. Failure to timely report a work-related injury may result in the loss of workers' compensation benefits.

Neither the ABC Board nor the insurance carrier will be liable for the payment of workers' compensation benefits for injuries that occur during an Employee's voluntary participation in any off-duty recreational, social, or athletic activity sponsored by the ABC Board.

An Employee absent from duty because of sickness or disability covered by the North Carolina Workers' Compensation Act may with prior approval of his or her supervisor may: (1) Elect to receive only those payments made under the North Carolina Workers' Compensation Act without using accumulated vacation or sick leave; or (2) Elect to receive a supplemental payment or make up the difference between his regular salary and the payments received under the North Carolina Workers' Compensation Act by using accumulated vacation or sick leave, that fraction of a day that is the same as the fraction of that supplemental payment for one (1) day.

Workers' compensation leave by an Employee must run concurrently with leave taken under the Family and Medical Leave Act (FMLA).

Section 5. Vacation

Vacation time off with pay is available to eligible Employees to provide opportunities for rest, relaxation, and personal pursuits. Only Employees in the following employment classifications are eligible to earn and use vacation time as described in this Section:

- **Full-time Employees**

Each eligible Employee will earn annual leave at the rate of one-half (1/2) workday per calendar month for the first one (1) year of full time service. After one (1) year, they will earn annual vacation leave at the rate of one (1) workday per calendar month. After ten (10) years, they will earn annual vacation leave at the rate of one and one-fourth (1 1/4) workdays per calendar month. No annual vacation leave will be accrued by an Employee who is not in an active pay status with the ABC Board. In the event that available vacation is not used by the end of the benefit year, Employees may carry unused time forward to the next benefit year. During the first ten (10) years of employment, the maximum limit for accrued annual vacation leave that may be carried into a subsequent calendar year will be twenty-four (24) workdays. After ten (10) years of employment, the maximum limit for accrued annual vacation leave that may be carried into a subsequent calendar year will be thirty (30) workdays.

The length of eligible service is calculated on the basis of a “benefit year.” This is the 12-month period that begins when the Employee starts to earn vacation time. An Employee’s benefit year may be extended for any significant leave of absence except military leave of absence. Military leave has no effect on this calculation.

Once Employees enter an eligible employment classification, they begin to earn paid vacation time according to the schedule. They can request use of vacation time only after it is earned. To take a vacation, Employees should request advance approval from their supervisors. Requests will be reviewed based on a number of factors including business needs and staffing requirements.

Vacation time off is paid at the Employee’s base pay rate at the time of vacation. It does not include overtime or any special forms of compensation such as incentives, commissions, bonuses, or shift differentials.

Upon termination of employment for any reason, if an Employee has completed one or more years of continuous service, the Employee will be paid for unused accrued annual vacation leave up to a maximum of thirty (30) days. Employees who have not completed one or more years of continuous service, will automatically forfeit all unused accrued annual vacation leave upon termination of employment. Upon the death of a Full-time Employee who completed one or more years of continuous service, the ABC Board will make payment for unused accrued annual vacation leave to his or her estate, up to a maximum of thirty (30) days.

Section 6. Holidays

ABC Board will grant holiday paid time off to all Employees on the holidays listed below:

- New Year’s Day (January 1st)
- Memorial Day (last Monday in May)
- Independence Day (July 4th)

- Labor Day (first Monday in September)
- Thanksgiving (fourth Thursday in November)
- Christmas (December 25th)
- 'Floating' Holiday (at discretion of ABC Board)

If a recognized holiday falls during an eligible Employee's paid absence (such as vacation or sick leave), regular pay will be provided instead of the paid time off benefit that would otherwise have applied.

Section 7. Sick Leave

Sick leave with pay is available to eligible Employees when absent from work for any of the following reasons: sickness or bodily injury that prevents the Employee from performing his or her regular job duties; required physical or dental examination or treatment; or exposure to a contagious disease when continuing work might jeopardize the health of others. With the prior approval of the his or her supervisor, an Employee may also use sick leave to care for a spouse, child or the Employee's mother or father. Only Employees in the following employment classifications are eligible to earn and use sick leave as described in this Section:

- **Full-time Employees**

Full-time Employees will accrue sick leave at the rate of one-half (1/2) workday per calendar month for the first five (5) years of service. After five (5) years of service, they will accrue sick leave at the rate of one (1) workday per calendar month. After ten (10) years of service, they will accrue sick leave at the rate of one and one-fourth (1 1/4) workdays per calendar month. Sick leave increments will accrue on the fifteenth day of each calendar month.

Notification of the desire to take sick leave should be submitted to the Employee's supervisor prior to the leave, when possible, or not later than two (2) hours after the beginning of a scheduled workday. The supervisor must also be notified each day for successive absences.

If an Employee is absent for three or more consecutive days due to illness or injury, a physician's statement may be required verifying that the Employee was ill and is now fit to return to work. The ABC Board reserves the right to request a physician's statement verifying sick leave absences in other instances, and may require such verification as a condition to receiving sick leave benefits.

Sick leave benefits will be calculated based on the Employee's base pay rate at the time of absence and will not include any special forms of compensation, such as incentives, commissions, bonuses, or shift differentials. For extended absences, sick leave accrual will cease after the first pay period and will resume when the Employee returns to work.

Sick leave benefits may be used to supplement any payments that an Employee is eligible to receive from state disability insurance, workers' compensation or ABC Board-provided disability insurance programs. The combination of any such disability payments and sick leave benefits cannot exceed the Employee's normal weekly earnings.

Unused sick leave benefits will be allowed to accumulate indefinitely. However, accrued sick leave has no cash value, and upon retirement, resignation, or other termination of employment for any reason, no payment shall be made to Employee for unused accrued sick leave.

Unused, accrued sick leave is allowed as creditable service at the time of retirement to Employees who participate in NCLGERS.

Section 8. Transfer of Accumulated Sick Leave

The ABC Board will allow new Employees who are vested members of NCLGERS to transfer accumulated sick leave at the Employee's request. The Employee must provide documentation from their former agency within 30 days as to the exact amount of sick leave that has been accumulated.

Section 9. Family and Medical Leave Act

a. Eligibility. To be eligible for unpaid leave under the Family Medical Leave Act ("FMLA"), whether regular FMLA Leave, Military Caregiver Leave or Qualifying Exigency Leave, an Employee must have been: (1) employed by the ABC Board for at least twelve (12) months; (2) employed by the ABC Board for at least 1250 hours in the preceding twelve (12) months; and (3) employed at a worksite where fifty or more Employees are employed within a seventy-five mile radius.

b. Regular FMLA Leave. Eligible Employees may take up to twelve (12) weeks of unpaid leave for, among other things, pregnancy, birth, adoption, foster care, medical care of the Employee with a serious health condition, or the Employee's spouse, child, legal dependent or parent with a serious health condition.

For purposes of this Section, a "serious health condition" is an illness, injury, impairment, or physical or mental condition that involves a period of incapacity: (1) requiring an absence for more than three full, consecutive calendar days from work and involves continuing treatment (i.e. two or more times within the first thirty days) by a health care provider; (2) is connected with inpatient care; (3) is due to pregnancy or for prenatal care; (4) is due to a chronic health condition; (5) is long-term or permanent due to a condition for which treatment may not be effective; or (6) requires multiple absences to receive multiple treatments for a condition that would likely result in an incapacity for more than three days if untreated.

For purposes of this Section, "serious health condition" does not include short-term conditions or voluntary or cosmetic treatments which are not medically necessary.

When an Employee's need for leave is due to a serious health condition of the Employee or a member of the Employee's family, a certification issued by a health care provider must be furnished as soon as possible. All certificates must contain these statements: (1) the date on which the serious health condition began; (2) the probable duration of the condition; (3) the appropriate medical facts known by the health care provider regarding the condition; and (4) a statement that the Employee is unable to perform the functions of his or her position. If the leave request is to care for a family member, the certificate must contain a statement that the Employee is needed to provide such care.

The ABC Board may also require a second opinion (at the ABC Board's expense) prior to authorizing leave under FMLA. In certain circumstances, the ABC Board may also require medical re-certifications as necessary to justify the need for ongoing time off or modified work schedules.

An eligible Employee is entitled to a total of twelve (12) weeks of FMLA leave per twelve (12) month period measured backward from the date an Employee uses any FMLA leave; provided, however, that husbands and wives who are both employed by the ABC Board are only entitled to an aggregate of twelve (12) weeks of FMLA leave per twelve (12) month period. An Employee who is on FMLA leave is guaranteed the same or comparable job when he/she returns to work.

c. Military Caregiver Leave. Under FMLA, eligible Employees who are the spouse, child, parent or next of kin (nearest blood relative) of a covered service member of the U.S. armed forces (including the National Guard and Reserves) are entitled to a total of up to twenty-six workweeks of unpaid leave during a twelve (12) month period to care for a service member who is receiving medical treatment, is in recuperation or is undergoing therapy for a serious injury or illness suffered while on active duty that has rendered the member medically unfit to perform the duties of the member's office, grade, rank, or rating.

Military Caregiver Leave may be taken only once and does not again become available with the start of a new FMLA year. An Employee may not take more than a combined total of twenty-six workweeks of leave in any twelve (12) month period in which he or she chooses to use both Military Caregiver Leave and other leave under FMLA.

Employees will be obligated to provide certification of the serious health condition and need for Military Caregiver Leave. Failure to provide necessary certification may result in denial of the leave requested.

d. Qualifying Exigency Leave. Under FMLA, eligible Employees are entitled to up to twelve (12) weeks of unpaid leave for a "qualifying exigency" that arises when a spouse, parent or child is on or has been called to active duty in support of a contingency operation. Qualifying exigencies may include absences:

- Due to short-notice deployments (seven or fewer days notice);
- To attend certain military events such as family support or assistance programs or official military ceremonies;
- To arrange for alternative childcare, provide childcare on an emergency, but not regular basis, or to attend meetings at a school or daycare concerning the service member's child;
- To address certain financial and legal arrangements;
- To attend counseling sessions arising from the call-up to active duty;
- To spend time with a service member who is on short-term rest and recuperation leave during a period of deployment (limited to five days for each instance); and
- To attend post-deployment activities, such as arrival ceremonies and reintegration briefings, within 90 days of the end of the deployment.

Employees will be required to provide a copy of the service member's active duty orders or other documentation supporting that the service member has been called to active duty in support of a contingency operation and the related dates of such duty.

Employees will also be required to provide certification setting forth, at a minimum: the facts supporting the need for the leave; the approximate start date for the qualifying exigency; and the start and end dates for the leave. Failure to provide necessary certification may result in denial of the leave requested.

Qualifying Exigency Leave, like leave for a serious health condition, is a FMLA-qualifying reason for which an eligible Employee may use his or her entitlement for up to 12 weeks of FMLA leave each year. An eligible Employee may take all 12 weeks of his or her FMLA leave entitlement as Qualifying Exigency Leave or the Employee may take a combination of 12 weeks of leave for both Qualifying Exigency Leave and regular FMLA Leave for a serious health condition.

e. Request for Leave under FMLA. A request for FMLA leave (regular FMLA Leave, Military Caregiver Leave, or Qualifying Exigency Leave) must be submitted to the Employee's immediate supervisor and requires the approval of the General Manager. Such requests should be submitted within thirty (30) calendar days of the anticipated leave whenever such leave is foreseeable. Failure to do so may result in denial of the leave request. When circumstances prevent the Employee from giving thirty-days notice, the Employee is to provide written notice as soon as practicable. A request for Qualifying Exigency Leave should be submitted using the same procedures as a request for other leave under FMLA, but should be submitted as soon as practically possible.

Employees must use any accrued paid leave they have earned, including vacation leave or sick leave, concurrently with any FMLA leave (regular FMLA, Military Caregiver Leave or Qualifying Exigency Leave) to which they are entitled. An Employee on unpaid leave under FMLA will not earn annual vacation leave or sick leave.

f. Intermittent Leave. An eligible Employee may, with the ABC Board's consent, take intermittent leave or have a modified work schedule due to the arrival of a new child or when medically necessary, as long as the cumulative leave does not exceed twelve (12) weeks per calendar year. For serious health conditions, intermittent leave or a reduced work schedule is allowed if medically necessary; provided, however, that the ABC board may transfer an Employee temporarily to an equivalent position to accommodate such a work schedule.

g. Benefits While on FMLA Leave. The ABC Board will continue to maintain applicable health insurance coverage for Employee on FMLA leave under the same terms as if the Employee had continued to work. If applicable, arrangements will need to be made for Employee to pay his or her share of health insurance premiums while on leave.

h. Failure to Return to Work. Any Employee who fails to report to duty promptly at the expiration of his or her leave under FMLA (regular FMLA Leave, Military Caregiver Leave or Qualifying Exigency Leave) will be considered as having voluntarily resigned, and the Employee will be required to reimburse the ABC Board for all health insurance or other premiums paid for said Employee during the leave, unless the Employee is unable to return to work because the medical condition for which the leave was taken continues.

i. **Questions.** The General Manager will be responsible for notifying Employees of approved leave under FMLA and what their rights and responsibilities are under the law. Questions regarding Family and Medical Leave should be directed to the General Manager.

Section 10. Military Leave

An Employee who is a member of an armed forces reserve organization or the National Guard shall be granted two (2) calendar weeks of leave for required annual training in a calendar year. Such leave shall be with pay for the first (1st) week and the remaining period may, at the Employee's option, be charged to accrued annual sick leave or taken as leave without pay. The ABC Board also complies with all applicable state and federal laws governing military leaves of absence including the Uniform Services Employment and Re-employment Rights Act (USERRA).

An Employee whose absence from employment is necessitated by reason of duty in the uniformed services, shall notify his/her department head or designee and request military leave as far in advance as possible. Employees will be offered the option of continuation of coverage of existing health insurance during such leave.

Section 11. Parental Leave for the Involvement in Children's Schools

The ABC Board grants leave of at least four (4) hours per year so that a parent, guardian or any person standing "*in loco parentis*" of a school-age child may attend or otherwise be involved in activities at the child's school pursuant to the provisions of North Carolina General Statute § 95-28.3. The following conditions apply to this leave:

- The leave will be at a mutually agreed upon time between the ABC Board and Employee;
- The ABC Board may require that the Employee provide a written request for the leave at least 48 hours before the time desired for the leave; and
- The ABC Board may require that the Employee furnish written verification from the child's school that the Employee attended or was otherwise involved at that school during the time of leave.

For purposes of this Section, the "school" includes public and private schools, church schools, and preschools. It also includes childcare facilities as defined under North Carolina General Statute § 110-86. Please note that this leave is not guaranteed paid leave, but rather guaranteed time-off. Employees wishing to take this leave would have to use accrued annual vacation leave in order to be paid.

Section 12. Bereavement Leave

All Employees of the ABC Board may be granted up to three (3) work days excused absence with pay due to the death of a member of his/her immediate family or significant other and such leave will not be charged against the Employee's annual or sick leave.

For purposes of this Section, "immediate family" includes wife, husband, mother, father, brother, sister, son, daughter, grandmother, grandfather, grandson, and granddaughter, as well as any legal dependents and the various combinations of half, step, in-law, and adopted relationships

that can be derived from those named. It also includes other people living in the same household, who share a relationship comparable to immediate family members regardless of marital status.

Section 13. Civil Leave

An Employee called for jury duty or as a witness for federal or state governments or subdivisions thereof will be entitled to civil leave with pay for this absence, provided the Employee deposits the money received for such duty with the Chief Financial Officer of the ABC Board.

Article 5. MISCELLANEOUS POLICIES

Section 1. Reporting to Work

Employees are responsible for reporting to work at the assigned place and time. As a general rule, ABC stores and other departments operate on a normal schedule during adverse weather conditions, including sleet and snow. In most cases proper planning will allow Employees to arrive at work on time. Employees will be notified of changes in the normal operation schedule through the General Manager's Office.

Work schedules for Employees vary depending on the needs of the organization. Supervisors will advise Employees of their individual work schedules. Staffing needs and operational demands may necessitate variations in starting and ending times, as well as variations in the total hours that may be scheduled each day, week, or pay period.

Employee attendance and punctuality is extremely important to the ABC Board, and attendance records will be carefully reviewed when an Employee is considered for raises and promotions. An Employee who shows a pattern of tardiness or absenteeism (when scheduled to work) will be subject to disciplinary action up to and including termination.

Section 2. Dress Code

The following dress code will apply to Employees:

- **Store / Mixed Beverage Employees:** While on duty, Employees must be neatly dressed and presentable to the public. Employees are required to wear shirts provided by the ABC System. All pants or jeans must be in good condition, and cannot be patched or faded. Tennis shoes or sport shoes in good condition are permitted. Employees may wear dress shorts of knee length.
- **Warehouse Employees:** While on duty, Employees must maintain a neat appearance. Work pants, jeans or dress casual shorts that are in good condition may be worn. T-shirts may be worn but cannot have offensive wording or pictures. No shirts or hats advertising distilled spirits may be worn.
- **Administrative Employees:** While on duty, Employees must maintain a neat and well-groomed professional appearance.

The General Manager will make the final determination should any interpretation or question of this section arise.

Section 3. Emergency Closings

At times, emergencies such as severe weather, fires, or power failures can disrupt store operations. In extreme cases, these circumstances may require the closing of a work or retail location.

When operations are officially closed for a whole day due to emergency conditions, the time off from scheduled work will be unpaid; however, Employees may use available vacation or compensatory time with the approval of the General Manager.

Employees in essential operations may be asked to work on a day when operations are officially closed. In such circumstances, Employees who work will receive regular pay and may be eligible for overtime pay or compensatory time.

Section 4. Fitness for Duty

It is the goal of the ABC System to provide a safe workplace for all employees. To accomplish this goal, the ABC Board has adopted the following fitness for duty policy:

- All Employees are expected to be physically and mentally fit to perform their jobs in a safe manner at all times. If an Employee is not able to perform their job (for example, if the Employee is taking medication that might affect their ability to do their job) the affected Employee must immediately inform their supervisor.
- If a supervisor believes an Employee is not fit to perform their duties, the Employee may be: sent home; relieved of certain duties; assigned to different duties; requested to take a medical examination; and/or suspended (with or without pay) until further facts and explanations are provided.
- This policy will be interpreted and applied so as to conform to all applicable laws, including the ADA, as amended.

Section 5. Lifting Requirements

All Employees working in an ABC store or ABC warehouse must be able to: lift items weighing up to 40 pounds; use hand trucks in the performance of daily duties; and perform the bending and stooping required for normal operations.

Section 6. Safety

It is the intent of the ABC Board to provide for an ongoing program that assures a safe, healthy work environment for all employees and complies with all safety laws and regulations.

a. Supervisor's Responsibilities. Each supervisor will be responsible for the following: (1) Providing safe work procedures and environment; Implementing safety policies and programs; (2) Informing and training Employees in safe work habits; (3) Detecting and correcting unsafe practices and conditions; (4) Investigating accidents and preparing accident reports; and (5) Encouraging Employees to report unsafe conditions and to submit practical safety suggestions.

b. Employee's Responsibilities. Each Employee will be responsible for the following: (1) Developing and maintaining safe work habits; (2) Promptly reporting all accidents and injuries; (3) Pointing out what are believed to be dangerous practices and working conditions; (4) Assisting with investigations of accidents; (5) Taking proper care of safety equipment; (6) Wearing proper clothing and avoiding loose sleeves, cuffs, rings, bracelets, and long hair around moving machinery; (7) Knowing the location and use of fire extinguishers, and location of fire exits, and the best method for reporting a fire; and (8) Abiding by all safety laws and regulations.

In addition to the above provisions, the ABC Board will maintain a "Safety Manual" which details safety related procedures and responsibilities. Employees will be expected to comply with the provisions of the Safety Manual.

Section 7. Business Travel Expenses

The ABC Board maintains a detailed, succinct "Travel Policy" (subject to change on annual basis) that allows for Employees to be reimbursed for reasonable business travel expenses incurred while on assignments away from the normal work location. All business travel must be approved in advance by the General Manager. Employees traveling on official business are expected to exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business or expending personal funds.

Section 8. Use of Equipment and Vehicles

a. ABC Board-Owned Vehicles. For business reasons, certain Employees have been designated to drive a ABC Board-owned vehicle to and from their residence. This will be the only authorized personal use of the vehicle. Individuals driving ABC Board-owned vehicles may have occasions where an incidental stop is necessary during business use. Such use will not be considered to be in violation of this Section. The ABC Board will compute a daily value for the commuting which will be included in the Employee's Form W-2 at the end of the calendar year. Such amount will be the minimum allowed by federal income tax laws. No personal items other than incidentals should be stored in the vehicle. The vehicle is to be locked when not in use with work articles stored either in the lock box or trunk during times when the vehicle is not in use.

b. Operation of Machinery and Vehicles. Employees are expected to exercise care, perform required maintenance, and follow all operating instructions, safety standards, and guidelines while operating complex machinery and vehicles. Employees are responsible for notifying the supervisor if any equipment, machines, tools, or vehicles appear to be damaged, defective, or in need of repair. Prompt reporting of the need for repairs could prevent further deterioration of equipment and possible injury to Employees or others. The supervisor can answer any questions about responsibility for maintenance and care of equipment or vehicles used on the job. The improper, careless, negligent, destructive, or unsafe use or operation of equipment or vehicles, as well as excessive or avoidable traffic and parking violations, may result in disciplinary action.

Section 9. Violations of Laws and Rules

The ABC Board expects its Board Chairman and other Members of the Local Board, its General Manager, Chief Finance Officer, and all Employees to comply with all laws and rules issued by the Commission. Accordingly, if an Employee becomes aware of, or observes, a violation of a

Commission law or rule, or of any other North Carolina law, the ABC Board encourages the Employee to timely communicate that information to the General Manager. In instances involving the General Manager, the Employee should make the report to the Board Chairman. In instances involving the General Manager and the Local Board Chairman, the Employee should make the report to another Member of the Local Board. Employee is also free to make any reports directly to the Commission, to Alcohol Law Enforcement personnel, to the City of Asheville Police Department, or to the Buncombe County Sheriff's Office, if they so choose.

An Employee making a good faith report under this Section shall not be retaliated against. However, knowingly making a false allegation under this Section or knowingly provides false information relative thereto, is grounds for disciplinary action, up to and including termination from employment.

Article 6. Workplace Violence Prevention

The ABC Board is committed to preventing workplace violence and to maintaining a safe work environment. The ABC Board has adopted the following guidelines to deal with intimidation, harassment, or other threats of (or actual) violence that may occur during business hours or on its premises.

Section 1. Policy Against Workplace Violence

All Employees should be treated with courtesy and respect at all times. Employees are expected to refrain from fighting, "horseplay," or other physical conduct that may be injurious to others.

Conduct that threatens, intimidates, or coerces another Employee, a customer, or a member of the public at any time, including off-duty periods, will not be tolerated. This prohibition includes all acts of harassment, including harassment that is based on an individual's sex, race, age, or any characteristic protected by federal, state, or local law.

Employees should not place themselves in peril. If an Employee sees or hears a commotion or disturbance near his or her workstation, they should not try to intercede or get involved with what is happening. All threats of (or actual) violence, both direct and indirect, should be reported immediately to the supervisor or any other member of management. This includes threats by Employees, as well as threats by customers, vendors, solicitors, or the public. When reporting a threat of violence, you should be as specific and detailed as possible.

The ABC Board will promptly and thoroughly investigate reports of threats of (or actual) violence and of suspicious individuals or activities. The identity of the individual making a report will be protected as much as is practical. In order to maintain workplace safety and the integrity of its investigation, the ABC Board may administratively suspend Employees, either with or without pay, pending the outcome and/or disposition of the investigation.

Anyone determined to be responsible for threats of (or actual) violence or other conduct that is in violation of these guidelines will be subject to prompt disciplinary action.

Section 2. Firearms and Other Concealed Weapons

The ABC Board strictly prohibits weapons of any type on its property or at any site where the ABC Board conducts business or sponsors an event. Visible and concealed weapons, including weapons for which the owner may have obtained a valid permit, are prohibited.

For purposes of this Section, “weapons” includes: firearms, dirk, dagger, switchblade, knife, metallic knuckles, or any other objects of a potentially threatening nature that could be used to harass, intimidate, or injure another individual.

This section does not apply to Employees that are sworn law enforcement officers who are required to carry firearms and are in the official performance of their duties.

Any Employee who has reason to believe that this Section is being violated must immediately report the matter to his or her supervisor.

Article 7. Personal Conduct

Section 1. Nepotism

The ABC Board will not employ a person if that person, or a member of that person’s family related to the person by blood or marriage to the first degree, has or controls, directly or indirectly, a financial interest in any commercial alcoholic beverage enterprise, including any business required to have an ABC permit.

The ABC Board will not employ members of an immediate family, if such employment will result in one member of the immediate family supervising another member of the immediate family, or if one member of the immediate family will occupy a position which has influence over another member’s employment, promotion, salary administration, or other management or personnel considerations.

For purposes of this Section, “immediate family” includes wife, husband, mother, father, brother, sister, son, daughter, grandmother, grandfather, grandson, and granddaughter, as well as any legal dependents and the various combinations of half, step, in-law, and adopted relationships that can be derived from those named. It also includes other people living in the same household, who share a relationship comparable to immediate family members regardless of marital status, if either occupies a position which requires influence over the other’s employment, promotion, salary administration or other related management or personnel considerations.

If an immediate family relationship is established after employment, it is the responsibility and obligation of the Employees involved to disclose the existence of the relationship to their supervisor or to the General Manager. The Employees involved will then be given the opportunity to decide who is to be transferred to another available position. If the Employees involved do not make a decision within 30 calendar days, the General Manager will decide who is to be transferred, or, if necessary, terminated from employment.

The ABC Board reserves the right, in all situations where a conflict, perceived conflict, or the potential for conflict arises because of the relationship between Employees, to separate, reassign or terminate any Employee.

Section 2. Personal Relationships in the Workplace

The employment of relatives or individuals involved in a dating relationship in the organization may cause problems with favoritism and overall employee morale. Therefore, Employees in a dating relationship may not work together; supervise one another; or occupy positions that have influence regarding employment, promotion, salary administration, or other management or personnel considerations over the Employee with whom they have the dating relationship.

For purposes of this Section, a “dating relationship” is defined as a relationship that may be reasonably expected to lead to the formation of a consensual “romantic” or sexual relationship. This policy applies to all Employees without regard to the gender or sexual orientation of the individuals involved.

If a dating relationship is established after employment, it is the responsibility and obligation of the Employees involved to disclose the existence of the relationship to their supervisor or to the General Manager. The Employees involved will then be given the opportunity to decide who is to be transferred to another available position. If the Employees involved do not make a decision within 30 calendar days, the General Manager will decide who is to be transferred, or, if necessary, terminated from employment.

The ABC Board reserves the right, in all situations where a conflict, perceived conflict, or the potential for conflict arises because of the relationship between Employees, to separate, reassign or terminate any Employee.

Section 3. Use of Phone and Mail Systems

Personal use of the ABC Board’s telephones for long-distance and toll calls is not permitted. Employees should practice discretion when making local personal calls and may be required to reimburse ABC Board for any charges resulting from their personal use of the telephone.

The mail system is reserved for business purposes only. Employees should refrain from sending or receiving personal mail at the workplace.

Section 4. Cellular (Mobile) Telephone

a. ABC Board Issued Cellular (Mobile) Telephone Phones. Cellular (Mobile) Telephones (“Cellular Phones”) are made available to Employees in certain positions, and will only be authorized in situations where there is documented evidence that the Cellular Phones aid service delivery and/or measurably increases productivity. Periodic internal audits may be conducted to ensure compliance with this Section.

b. Business Use. Cellular Phones issued by the ABC Board will be used for appropriate business purposes only. By way of example only, the following are permitted work related calls: (1) For food delivery when the Employee is in the field and a wired telephone is not available; (2) To home or doctor if the Employee is injured or become sick at work; and (3) To notify an Employee’s family or other appropriate parties to inform them of a schedule change caused by official business or transportation schedule changes or delays. Calls to user-pay telephone numbers (such as 900 prefix numbers) are strictly prohibited, regardless of any reimbursement intentions. The ABC Board expects Employees to be good citizens and use Cellular Phones to report emergency situations to appropriate authorities.

c. Maintenance. Equipment security and maintenance of Cellular Phones is the responsibility of each user. This includes deterring theft by proper storage when not in use and being careful when on remote job sites. In the event a Cellular Phone is damaged, stolen or missing, or otherwise fails to work properly, the user must immediately contact his or her supervisor so that the service can be deactivated and/or remotely erased. Employees may be responsible for repair or replacement of Cellular Phones that are significantly damaged, and supervisors may take disciplinary action based on patterns of equipment abuse or loss.

d. Use While Driving. Employees will use “hands-free” option while motor vehicle is in use. If hands-free is not available, Employee will not operate motor vehicle while using a Cellular Phone. Emergency responders may utilize Cellular Phones while driving during emergency response should the situation require. Employees will not operate a motor vehicle while texting, emailing, or using web services on Cellular Phones or on other handheld devices.

Section 5. Smoking

In keeping with the ABC Board’s mission to provide a safe and healthful work environment, smoking is prohibited in the workplace. This policy applies equally to all Employees, customers, and visitors.

Section 6. Computer, Tablet, Email, and Internet Usage

All computers, tablets, computer files, software, and other technology furnished to Employees by the ABC Board, is the property of the ABC Board and is intended for business use only. Likewise, the ABC Board email system is reserved for business purposes only, and Employees should refrain from sending or receiving personal email utilizing their work accounts or work computers.

Employees have no expectation of privacy when utilizing ABC Board computers, tablets or email accounts, as all computers, tablets and email usage may be monitored by the ABC Board. Email may not be used to solicit others for commercial ventures, religious or political causes, outside organizations, or other non-business matters.

ABC Board purchases and licenses the use of various computer software for business purposes and does not own the copyright to this software or its related documentation. Employees may only utilize software provided by the ABC Board on local area networks or on multiple machines in accordance with each software license agreement. Any illegal duplication, distribution and use of computer software and its related documentation is prohibited. Employees should notify their immediate supervisor, the General Manager or any member of management upon learning of violation(s) of this Section. Employees who violate this policy will be subject to disciplinary action.

Internet access to global electronic information resources on the World Wide Web is provided by the ABC Board to assist Employees in obtaining work-related data and information. The following policies have been established to help ensure responsible and productive Internet usage:

- All data that is composed, transmitted, or received via the ABC Board’s Internet communications system is considered to be part of the official records of ABC Board, and, as such, is subject to disclosure to law enforcement or other third parties. Consequently, Employees should always ensure that the business information

contained in Internet email messages and other transmissions is accurate, appropriate, ethical, and lawful.

- The equipment and technology provided to access the Internet remain at all times the property of the ABC Board. As such, the ABC Board reserves the right to monitor Internet traffic and retrieve and read any data composed, sent, or received through online connections and stored in the ABC Board's computers or systems.
- Use of the equipment and technology provided to access the Internet is for business purposes only.
- Data that is composed, transmitted or accessed via the Internet must not contain content that could be considered discriminatory, offensive, obscene, threatening, harassing, intimidating, or disruptive to any Employee or other person. Examples of unacceptable content may include, but are not limited to, sexual comments or images, racial slurs, gender-specific comments, or any other comments or images, that could reasonably offend someone on the basis of race, age, sex, religious or political beliefs, national origin, disability, sexual orientation, or any other characteristic protected by law.
- The unauthorized downloading, use, installation, copying, pirating or distribution of copyrighted, trademarked, or patented material on the Internet is expressly prohibited. As a general rule, if an Employee did not create material, does not own the rights to it, or has not gotten authorization for its use, it should not be put on the Internet. Employees are also responsible for ensuring that person(s) sending any material over the Internet has the appropriate distribution rights.
- To ensure a virus-free environment, no files may be downloaded from the Internet without prior authorization of a supervisor.

All Employees are further prohibited from the following:

- Stealing, using, or disclosing someone else's code or password without authorization;
- Using, copying, pirating, installing, or downloading software and electronic files without permission;
- Sending or posting confidential material, trade secrets, or proprietary information outside of the ABC System;
- Violating copyright law;
- Failing to observe licensing agreements;
- Engaging in unauthorized transactions that may incur a cost to the ABC Board or initiate unwanted Internet services and transmissions;
- Sending or posting messages or material that could damage the ABC Board's image or reputation;

- Participating in the viewing or exchange of pornography or obscene materials;
- Sending or posting messages that defame or slander other individuals;
- Attempting to break in to the computer system of another organization or person;
- Refusing to cooperate with a security investigation;
- Sending or posting chain letters, solicitations, or advertisements not related to business purposes or activities;
- Using the Internet for political causes or activities, religious activities, or any sort of gambling;
- Jeopardizing the security of the organization's electronic communications systems;
- Sending or posting messages that disparage another organization's products or services;
- Passing off personal views as representing those of the organization;
- Sending anonymous email messages; and
- Engaging in any other illegal activities

Abuse of Internet access provided by the ABC Board in violation of law or this Section will result in disciplinary action. Employees may also be held personally liable for any violations of this policy.

Section 7. Solicitation

a. Solicitation by Non-Employees. In an effort to ensure a productive and harmonious work environment, persons not employed by the ABC Board may not solicit or distribute literature in the workplace at any time for any purpose without the General Manager's permission. (By way of example only, solicitation includes: the collection of money, goods, or gifts for community groups, religious groups, political groups, or charitable groups; the sale of goods, services, or subscriptions outside the scope of official organization business; the circulation of petitions; the distribution of literature; and the solicitation of memberships, fees, or dues.)

b. Solicitation by Employees. The ABC Board recognizes that Employees may have interests in events and organization outside the workplace. However, Employees may not solicit or distribute literature concerning these activities during working hours. For purposes of this Section, "working hours" does not include lunch periods, work breaks, or any other periods in which Employees are not on duty.

Section 8. Outside Employment

Outside employment by Full-time Employees (whether for salary, wages or commissions) is prohibited without the approval of the General Manager, as it may have an adverse effect on the productivity of the ABC Board and/or represent a conflict of interest with the ABC Board. In all cases where a Full-time Employee seeks to maintain secondary employment, the Employee must notify the General Manager, and the General Manager will review each case and make a decision whether or not to approve the secondary employment. The General Manager's decision will be final.

Article 8. Drug and Alcohol Use

Section 1. Drug Free Workplace

It is the ABC Board's desire to provide a drug-free, healthful and safe workplace. To promote this goal, Employees are required to report to work in appropriate mental and physical condition to perform their duties in a satisfactory manner. No Employee will use, manufacture, possess, distribute, sell, or be under the influence of illegal drugs while in the workplace or on ABC Property. Action by an Employee in violation of this policy is grounds for immediate termination. The legal use of prescribed drugs is permitted on the job, only if it does not impair an Employee's ability to perform the essential functions of the job effectively and in a safe manner that does not endanger other individuals in the workplace.

Employees with drug or alcohol problems that have not resulted in, and are not the immediate subject of, disciplinary action may request approval to take unpaid time off to participate in a rehabilitation or treatment program. Leave may be granted at the discretion of the General Manager, if the Employee agrees to abstain from use of the problem substance, abides by all ABC Board policies, rules, and prohibitions relating to conduct in the workplace, and if granting the leave will not cause ABC Board any undue hardship.

Under the Drug-Free Workplace Act, an Employee who performs work for a government contract or grant must notify ABC Board of a criminal conviction for drug-related activity occurring in the workplace. The report must be made within five days of the conviction.

Section 2. Consumption of Alcoholic Beverages

No Employee, while on duty during the hours prescribed by the General Manager, will consume or be under the influence of any alcoholic beverages, unless that Employee is engaged in undercover activities. No Employee will consume or permit the consumption of any alcoholic beverages on the premises of an ABC store or warehouse. No Employee will be or become intoxicated while on duty or on the premises of an ABC store or warehouse.

Section 3. Searches

Where a supervisor has a reasonable suspicion that an Employee is using illegal drugs, the Employee may be required to submit to a reasonable search of, by way of example only, their clothing, personal lockers, purses, lunch boxes or other containers, desks, computer, and/or filing cabinets. The General Manager, or his or her designee, must approve all searches in advance.

Section 4. Drug & Alcohol Testing – Reasonable Suspicion of Drug Use

Whenever a supervisor has reasonable individualized suspicion that an Employee on duty is impaired, is under the influence of alcohol or illegal drugs, or is otherwise unfit for duty, the supervisor may require the Employee to submit to a drug test or an alcohol test, but only after first obtaining the concurrence of the General Manager or his/her designee. The Employee will be notified that he or she is being requested to submit to a drug test or alcohol test. Care will be taken to ensure that supervisors make no conclusions as to whether or not the Employee is a substance abuser. The test shall be administered within eight (8) hours of the determination of reasonable suspicion.

By way of example only, reasonable suspicion may include any one or a combination of the following: impairment of motor functions, including slurred speech; odor of marijuana or alcohol; inability to walk a straight line; physical altercation; verbal altercation; behavior that is so unusual it warrants summoning a supervisor; possession of drugs; verifiable information obtained from other employees based on their personal observations; direct observation of drug or alcohol use.

Section 5. Random Drug & Alcohol Testing

Certain Employees are subject to random drug testing and alcohol testing in accordance with specific federal and state regulations. Further, Employees holding a safety-sensitive positions within the ABC System are also subject to random drug testing.

For purposes of this Article, "safety sensitive position" means a position where the ABC Board has a compelling need (in accordance with applicable regulatory requirements) based on safety concerns, to ascertain on-the-job impairments. By way of example only, safety sensitive positions include:

- Positions requiring the use of weapons (or potential use of weapons);
- Positions requiring the use or operation of machinery or equipment as a primary task (excluding office machinery);
- Positions requiring driving, loading or unloading a vehicle; supervising or assisting in the loading or unloading of a vehicle, and operating a vehicle requiring a commercial driver's license (CDL); and
- Positions in which the primary duties are likely to endanger the public or other employees if the Employee is under the influence.

The Employee will be notified that he or she is being requested to submit to a drug test or alcohol test. Care will be taken to ensure that supervisors make no conclusions as to whether or not the Employee is a substance abuser. The test shall be administered within eight (8) hours of notification for the random test. When an Employee is requested to submit to a drug test under this Section a supervisor or his/her designee will escort the Employee to the testing site.

Section 6. Post Accident or Incident Drug Testing.

Employees holding safety sensitive position will be required to submit to a drug test in any of the following accident or incident situations:

- A human fatality;
- Bodily injury to any person involved in the accident which requires medical treatment away from the scene of the accident;
- One or more vehicles incur disabling damage requiring a tow truck to remove it from the scene of the accident; and/or
- Other circumstances in which the General Manager determines there is an immediate and significant threat to the public safety.

The test shall be administered within eight (8) hours of the accident or incident.

Section 7. Testing Procedures.

Procedures established by the ABC Board's designated collection facility will be followed for specimen collection. Where tests are governed by federal or state law, procedures specified therein will be followed.

An Employee may be permitted to continue to work pending the results of the drug test or alcohol test if at the General Manager's discretion, the Employee's return to work will not endanger the Employee, fellow Employees, or members of the public, nor cause any other problem(s) relating to the ABC Board's ability to manage its workplace.

Section 8. Positive Test Results.

In the event a drug test is positive (positive drug test results must be confirmed by the laboratory using GCMS), the following procedures should be followed:

- The laboratory will inform the designated Medical Review Officer ("MRO") that the alcohol or drug-screening test is positive, and will convey such details of the test as the MRO deems necessary. The Employee will also be given written notice of the positive result and notice of rights related to re-testing. The MRO will consult with the Employee to determine for the positive test results to determine if the positive result is based on factors other than the use of the drug for which the result was positive
- If a satisfactory explanation is provided, the MRO will advise the General Manager and the Employee will be so informed and will be reinstated with back pay and benefits, as appropriate.
- If a satisfactory explanation is not provided, the MRO will so advise the General Manager, who will meet with the Employee with another member of management to advise the Employee of the test results. Upon confirmation of a positive test result,

the Employee's supervisor will consult with the General Manager and determine the appropriate disciplinary action.

- If an Employee is entitled to return to work following a positive test result, may require a return to duty evaluation and follow up testing.

Section 9. Failure of an Employee to Cooperate

An Employee's compliance with this Article is a condition of employment. Failure or refusal of an Employee to cooperate and participate, sign any requested document, or submit to requested testing will be grounds for disciplinary action, up to and including termination. Violations of this Article may also result in further legal consequences.

The ABC Board will maintain drug and alcohol test results in a secure and confident manner so that disclosure of information to unauthorized persons does not occur. Employees with questions or issues regarding the Article may address such matters with their supervisor and/or the General Manager without fear of reprisal.

Article 9. Separation, Disciplinary Action, Dismissal and Grievance Procedure

Section 1. Types of Separation

All separations of Employees from positions in the service of the ABC Board shall be designated as one of the following: resignation, reduction in force, disability, retirement, dismissal or death.

a. Resignation: A minimum of two (2) weeks notice is expected of all resigning Employees. Such notice should be given to the General Manager. Employees who do not give proper notice will not be paid for accumulated vacation leave upon termination.

Three consecutive scheduled workdays without reporting to work or contacting the appropriate official shall be considered a voluntary resignation.

b. Reduction in Force: In the event that a reduction in force becomes necessary, consideration shall be given to the quality of each Employee's past performance, organizational needs, and seniority, in that order, in determining those Employees to be retained. Employees who are laid off because of reduction in force shall be given at least one (1) pay period notice of anticipated layoff.

c. Disability: An Employee may be separated for disability when the Employee cannot perform the required duties because of a physical or mental impairment and reasonable accommodations, as required by the American with Disabilities Act (ADA), cannot be made. Action may be initiated by the Employee or the ABC Board, but in all cases it shall be supported by medical evidence as certified by a competent physician. The ABC Board may require an examination at its expense and performed by a physician of its choice.

Section 2. Disciplinary Action & Dismissal.

Notwithstanding any of the provisions within this Article, employment by the ABC Board remains employment at will and may be terminated at any time, either by the Employee or by the ABC Board with or without cause, and with or without advance notice.

The ABC Board seeks fair treatment of all Employees. Accordingly, the purpose of this policy is to state the ABC Board's position regarding progressive discipline for unsatisfactory job performance and position regarding misconduct in the workplace, in an effort to correct the problem and prevent its recurrence. In the event of unsatisfactory job performance, the ABC Board will strive to utilize a system of progressive discipline as follows, but reserves the right to take disciplinary action without notice and at its discretion:

a. Unsatisfactory Job Performance. An Employee may be reprimanded, suspended (with or without pay), demoted, or dismissed by his or her supervisor or the General Manager for unsatisfactory job performance. The ABC Board will strive to take such disciplinary action only after first providing at least three (3) warnings. First, the Employee's supervisor will provide an oral warning, which specifies in what way the Employee's work is deficient and what must be done if the work is to be satisfactory. Second, if the oral warning does not result in improved performance, the Employee will receive a written warning from his or her supervisor, again specifying the Employee's performance deficiencies and the steps required to achieve satisfactory performance. Third, if performance still does not improve, a final written warning will be issued by the General Manager. This warning serves as notice to the Employee that corrective action must be taken and completed immediately to avoid further disciplinary action.

By way of example only, unsatisfactory job performance includes: inefficiency, incompetence or negligence in the performance of duties; brutality in the performance of duties; accepting gifts in exchange for favors or influence; refusing to accept a reasonable and proper assignment from an authorized supervisor; revealing confidential information from official records; failing to report for duty at the assigned time and place; or absence without approved leave.

b. Misconduct. An employee may be immediately, and without notice, reprimanded, suspended (with or without pay), demoted, or dismissed by his or her supervisor or the General Manager for misconduct in order to avoid undue disruption of work, to protect the safety of persons or property, or for other serious reasons. When a General Manager suspends or dismisses an Employee, the Employee shall be required to leave the ABC system property at once and remain away until further notice. A written summary giving the circumstances and facts leading to the immediate suspension will be provided to the Employee and a copy will be maintained in the Employee's personnel file.

By way of example only, misconduct includes: insubordination; immoral or criminal conduct; misuse or misappropriation of ABC Board funds; willful damage to person or property; theft or dishonesty; conduct unbecoming an ABC Board Employee; careless or improper use of ABC Board property; improper removal of an alcoholic beverage or promotional products from any ABC Board store, warehouse, or office; violation of laws pertaining to alcoholic beverages, including laws prohibiting sale of alcoholic beverage to minors; intentionally shortchanging or otherwise defrauding a customer; reporting to work under the influence of alcohol drugs or partaking of such on the job; engaging in incompatible employment or in employment serving a conflict of interest; improper use of sick leave; falsifying information to secure employment; acting to disrupt the normal operation of the ABC Board; trespassing on the home of any ABC official for the purpose of harassing or forcing discussion conviction of a felony; violating any other policy or procedure of the ABC Board; and violating any provision of the applicable North Carolina General Statutes or North Carolina Administrative Code pertaining to sale and distribution of spirituous liquor.

c. Appeal. An Employee may appeal a suspension without pay or a dismissal by the General Manager using the Grievance Procedure prescribed in Section 3 of this Article.

d. Dismissal by Commission. Employees may also be dismissed directly by the Commission for cause in accordance with N.C. Gen. Stat. § 18B-704.

Section 3. Grievance Procedure

This Grievance Procedure is designed to help Employees work out problems with management and in no way modifies or suspends the ABC Board's Employment At Will Policy or the status of any Employee as an Employee at will.

A grievance is any dispute concerning the interpretation or application of the policies within this Personnel Manual or any other ABC Board policy, practice or procedure affecting working conditions for the Employee (hereinafter "Grievance"). By way of example only, a Grievance might involve alleged safety or health hazards, misapplication of department work rules, unsatisfactory physical facilities or equipment, safety or health hazards, or any other complaints related to conditions of work of the Employee.

CLAIMS OR COMPLAINTS OF DISCRIMINATION OR HARASSMENT ARE NOT AND WILL NOT BE HEARD AS GRIEVANCES UNDER THIS POLICY. ALL SUCH CLAIMS AND COMPLAINTS WILL BE GOVERNED BY THE ABC BOARD'S EQUAL EMPLOYMENT OPPORTUNITY POLICY CONTAINED IN ARTICLE 2.

When an Employee has a Grievance, the successive steps described below will be utilized to address the Grievance:

a. Step One. An Employee with a Grievance shall present the Grievance orally or in writing to their immediate supervisor within seven (7) calendar days of its occurrence or within seven (7) calendar days of the time the employee learns of its occurrence. If the exact date cannot be established for the occurrence of a Grievance, the seven (7) calendar day limit will be waived, but the Employee should submit the Grievance within a reasonable time period. The Grievance shall specify the relief that the Employee expects to gain through the use of the Grievance Procedures. The supervisor should, and is encouraged to, consult with any Employee or officer deemed necessary to reach a correct, impartial, and equitable determination and shall respond to the Employee's Grievance as soon as possible, but within five (5) working days.

b. Step Two. If the Grievance is not resolved in Step 1, or if the Employee fails to receive an answer within the designated period provided in Step 1, the Employee may submit the Grievance in writing to the General Manager within seven (7) calendar days. The Grievance must specify the relief that the Employee expects to gain through use of the Grievance Procedures. The General Manager, or his/her designee, shall subsequently meet with the Employee within seven (7) calendar days of receipt of the Grievance, shall review the decision made at Step 1, and shall make an independent determination on the merits of the Grievance. Within ten (10) days of meeting with the Employee, the General Manager shall issue a written decision.

c. Step Three. If the Employee is not satisfied with the General Manager's decision in Step 2, a request to be heard by the Local Board may be submitted, within seven (7) working days of the date of the General Manager's decision, but only in situations involving termination of employment or suspension without pay. In all other situations, the General Manager's decision is final. A request to be heard by the Local Board shall be made in writing to

the Chairman of the Board (with a copy to the General Manager). The Board shall make every effort to schedule a hearing within thirty (30) days of receipt of Employee's request. The decision of the General Manager will stand pending the decision of the Local Board. Within thirty (30) days following the completion of the hearing, the ABC Board shall issue its written decision. The Local Board may affirm, modify or rescind the decision of the General Manager. The decision of the Local Board is the final step in the Grievance Procedures.

The Local Board reserves the right to deny an Employee's request to be heard if the matter, in the opinion of the Local Board, does not warrant such a hearing. In such cases the General Manager's decision shall be final. If necessary, and in their discretion, the General Manager or the Local Board may extend any time period specified in this Section. Employees may not have an attorney, or other representative, present at any stage of the Grievance Procedures. These Grievance Procedures shall not apply to dismissal or other disciplinary action taken by the Commission.

There shall be no retaliation against Employees or applicants for employment who utilize these Grievance Procedures to assert a bona fide Grievance in good faith. However, if it is determined that a Grievance is not bona fide, is not submitted in good faith, or that the Employee has otherwise knowingly provide false information regarding the Grievance, disciplinary action may be taken against the individual who filed the Grievance or provided the false information.