

**TAOS COUNTY
ORDINANCE 2012-6
AMENDING ORDINANCE NO. 2006-1
(AS AMENDED BY 2008-1 AND 2011-2)**

**AMENDMENTS TO TAOS COUNTY PERSONNEL
POLICY ORDINANCE 2006-1 (AS AMENDED BY
ORDINANCE 2008-1 AND 2011-2).**

WHEREAS, the Board of County Commissioners of Taos County (the "Commission") is the duly authorized governing body of Taos County (the "County"), a New Mexico political subdivision; and

WHEREAS, the Commission has the duty and responsibility to adopt Ordinances for the County pursuant to § 4-37-13, NMSA 1978 and the duty and responsibility for the management of the government of the County pursuant to § 4-38-1 through 4-38-42, NMSA 1978; and

WHEREAS, the Commission has determined that it is in the best interests of the County to amend the Taos County Personnel Policy, Ordinance 2006-1.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF TAOS COUNTY, NEW MEXICO THAT ORDINANCE 2006-1 BE AMENDED AS FOLLOWS:

SEE ATTACHED EXHIBIT "1"

Said amendments are in addition to and supplement amendments found in Ordinances 2008-1 and 2011-2.

This Taos County Ordinance 2012-6 shall be recorded and authenticated by the County Clerk following adoption by the Board of County Commissioners. The effective date of this Ordinance shall be November 1, 2012.

SIGNATURE PAGE TO FOLLOW

PASSED, ADOPTED AND APPROVED THIS 2nd DAY OF OCTOBER, 2012.

TAOS COUNTY BOARD OF
 COMMISSIONERS:



Elaine S. Montano
 Elaine S. Montano,
 County Clerk

Approved as to form:

Barbara A. Martinez
 Barbara A. Martinez,
 Taos County Attorney

Joe Mike Duran
 Joe Mike Duran, Chairman

Andrew D. Chavez
 Andrew D. Chavez, Vice Chairman

Daniel Barrone
 Daniel Barrone, Commissioner

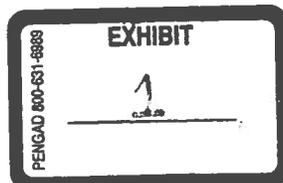
Larry Sanchez
 Larry Sanchez, Commissioner

Nicklos E. Jaramillo
 Nicklos E. Jaramillo, Commissioner

Vote Record:

Commissioner	Yes	No	Abstain	Absent
D. Barrone	<input checked="" type="checkbox"/>			
J. M. Duran	<input checked="" type="checkbox"/>			
A. Chavez	<input checked="" type="checkbox"/>			
L. Sanchez	<input checked="" type="checkbox"/>			
N. Jaramillo	<input checked="" type="checkbox"/>			

PERFORMANCE MANAGEMENT



Taos County Personnel Policy, Section 5.4 PERMORNANCE MANAGEMENT will be deleted and the following language will be added;

5.4 PERFORMANCE EVALUATION. Supervisors are encouraged to meet with their employees at least on a quarterly basis to review their employee's performance. However, formal performance evaluation of each employee shall be conducted to provide the supervisor and the employee an opportunity to discuss job performance, identify and correct weakness, encourage and recognize strengths and discuss positive, purposeful approaches for meeting goals. A performance evaluation does not constitute a pay increase.

A) Evaluation Procedure

- 1. Date of Evaluation.** When a performance review is initiated, it will occur on or about the employee's anniversary date. Each employee on probation shall receive a performance evaluation after three (3) months and six (6) months of employment. Employees who are on probationary status following a promotion or transfer may receive a performance evaluation after six (6) months on an as-needed basis in the new position. An additional performance evaluation may be scheduled as necessary.
- 2. Evaluation Form.** When a performance review is initiated, the supervisor shall complete the form provided by the Human Resources Department for that purpose.
- 3. Conduct of Evaluation.** The performance evaluation shall be conducted in person by employee's immediate supervisor, at which time the completed evaluation form shall be presented to the employee. Before becoming effective, the performance evaluation shall be reviewed and if appropriate, approved by the Department Head/Elected Official.
- 4. Objecting to a Performance Evaluation.** If an employee wishes to rebut a performance evaluation, the employee must complete a rebuttal statement in the space provided on the performance evaluation form or prepare a separate statement. An employee aggrieved by a performance evaluation may request review of the performance evaluation by the Department Head/Elected Official and/or further review the by the County Manager. Neither the Department Head/Elected Official nor the County Manager is obligated to take any action when asked to undertake such a review.

B) Effect of Failure to Evaluate. In the event that a performance evaluation is not completed within thirty (30) days of the employee's anniversary date, it will be presumed that the employee's performance and conduct are satisfactory.

C) Use of Performance Evaluations. Results of the performance evaluations will be considered when making decisions affecting merit pay increases, performance incentive awards, training, promotion, transfer or continued employment.

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DISCRIMINATION AND HARASSMENT

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Taos County Personnel Policy, Section 5.9 DISCRIMINATION AND HARASSMENT:

F) Filing Complaints. Add “or Deputy County Manager” after Human Resources Director.

G) Investigation Procedures. Add “or Deputy County Manager” after Human Resources Director in first line. Add “Deputy County Manager or outside investigator” after Human Resources Director in eighth line.

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DRUG AND ALCOHOL FREE WORKPLACE

Taos County Personnel Policy, Section 5.10 ILLEGAL USE OF DRUGS AND ALCOHOL will be deleted and **the following language will be added:**

5.10 DRUG AND ALCOHOL FREE WORKPLACE. Taos County does not tolerate the abuse of drugs and/or alcohol and strives to maintain a workplace that is free from the effects of drug and alcohol abuse. Employees are prohibited, under the Drug-Free Workplace Act of 1988 from the illegal use, sale, dispensing, distribution, possession, or manufacture of illegal drugs, controlled substances, narcotics, or alcoholic beverages on County premises or work sites. Employees are further prohibited from possessing, distributing, selling, manufacture or use of illegal drugs outside of work hours. In applying this policy, the County will adhere to the antidiscrimination provisions of the Americans with Disabilities Act (ADA), the Rehabilitation Act, regulations established by the Department of Transportation, and New Mexico State Law.

A) Sale, Use and Possession of Drugs. Any employee who illegally sells, purchases, or transfers drugs or any illegal substance, on or off duty, shall be terminated. Any employee who, while on duty, possesses drugs or any substance in *Schedules I and II of the Controlled Substances Act NMSA 1978, Sections 30-31-41 (Reply. Pomp. 1994)* without a valid prescription or as otherwise authorized by law shall be terminated. Any employee who is caught consuming alcohol while on duty shall be terminated.

B) Employee Categories.

- 1. Federally Mandated Employees.** Federally mandated employees are those working under the rules of the U. S. Department of Transportation (DOT) and/or the Federal Motor Carrier Safety Administration (FMCSA). At Taos County these are employees whose job requires a Commercial Drivers License (CDL). Federally mandated employee are subject to **pre-employment, post accident, random, and reasonable suspicion testing** following the rules and procedures established by DOT and FMCSA.
- 2. Safety Sensitive Employees.** Employees that are in designated Safety Sensitive positions are subject to **pre-employment, post accident, random and reasonable suspicion testing.** Designated Safety Sensitive positions include, but are not limited to, Adult and Juvenile Detention Officers, Public Works Employees, Facilities Management Employees, Emergency Medical Technicians, Sheriff's Deputies, Animal Control Officers, and Transport Officers. These employees are subject to pre-employment, post accident, random, and reasonable suspicion testing following the rules and procedures established by DOT and FMSCA.
- 3. Administrative Employees.** All other County employees are subject to **post-offer / pre-employment, post accident-vehicular, and reasonable suspicion testing.**

C) **Drug Testing.** Taos County has a vital interest in maintaining safe and efficient working conditions for its employees and citizens. Employees under the influence of alcohol or drugs pose serious safety and health risks not only to the user but also to those in contact with the user. Therefore, Taos County will conduct Drug and Alcohol tests in compliance with accepted testing standards in the following circumstances:

1. Post Accident Vehicular Accident
2. Reasonable Suspicion Non Vehicular Accident
3. Reasonable Suspicion Testing
4. Random Testing

D) **Incident Categories**

1. **Post Accident- Vehicular Accident.** For the purposes of this policy, a "Vehicular accident" shall mean an occurrence associated with the operation of a county vehicle (truck, car,) or other heavy equipment such as backhoes, loaders, and graders.

a. **When Tests Will Be Conducted.** Employees (drivers, vehicle operators) shall be tested when any accident occurs that is associated with the operation of a county vehicle (truck, car) or other heavy equipment such as backhoes, loaders and graders. The County may require a post-accident drug test of employees near the scene following a vehicular accident or incident. An employee may be suspended with pay until a full investigation has taken place and an appropriate course of action is determined.

b. **Post Vehicular Accident Testing Procedures.** As soon as practicable after a vehicular accident, the supervisor or designee will accompany the employee to a County approved drug and alcohol screening office for testing. A post accident drug and alcohol test may include breath, urine, and blood testing. If over two (2) hours elapses before testing, the supervisor shall prepare a report to the County Manager explaining why the drug and alcohol test was not promptly administered. Failure to promptly conduct a required drug and alcohol test may result in disciplinary action. In the event that an employee receives emergency medical treatment or is hospitalized, the drug screening should be conducted at the hospital or urgent care facility.

2. **Post Accident-Non-Vehicular Accident**

For the purposes of this policy, a "Non-Vehicular accident" shall mean any accident Not-associated with the operation of a county vehicle (truck, car,) or other heavy equipment such as backhoes, loaders, and graders, whether or not injury resulted.

E) **Random Testing.** Federally mandated and safety sensitive employees (as defined above) are subject to random testing complying with the rules and procedures for random testing established by DOT and FMSCA.

1. **Random Testing Procedures: The County will require the following groups to be randomly drug tested as follows:**

DOT regulated employees: 50% of workforce per annum.

Safety Sensitive employees: 25% of workforce per annum

REFUSAL TO SUBMIT TO A DRUG OR ALCOHOL TEST SHALL BE DEEMED CAUSE FOR IMMEDIATE TERMINATION

F) **Positive Test Results.**

1. Unclassified, probationary, temporary or casual employees who test positive for drugs or alcohol will be terminated.

2. A classified employee who tests positive for drugs or alcohol are subject to termination unless they elect to enroll in the County's Employee Assistance Program (EAP). Employees who elect to enroll in the EAP may use their accumulated annual leave, compensatory time, and sick leave to seek treatment. Employees who have elected the EAP in lieu of termination are not allowed use of the Sick Leave Bank. When all authorized leave is exhausted, they will be placed in a leave without pay status. Any employee who is not cleared to return to work within ninety (90) calendar days of referral to the EAP will be terminated.

G) **Voluntary Self-Referral.** The County strongly encourages any employee who believes or suspects that they may have a problem with drugs and/or alcohol to seek help from the Human Resources Department prior to any mandated drug and alcohol testing. The initial EAP screening is free to an employee. Any costs for required additional treatment shall be borne by the employee. **Voluntary self-referrals may use annual leave, compensatory time, sick leave, the Sick Leave Bank, and unpaid administrative leave in order to complete the EAP.** Self-referrals must be cleared to return to duty within ninety (90) calendar days of entering the EAP program or they may be terminated.

1. **Non-safety sensitive employees.** Non-safety sensitive employees will be referred to the EAP for evaluation. Such employees are expected to be at work and performing satisfactorily unless they have been removed from duty by the EAP for treatment.

2. **Federally-mandated and safety sensitive employees.** Federally mandated and safety sensitive employees will be removed from duty, placed in an appropriate leave status, and referred to the EAP for evaluation. Such employees may be assigned to a non-federally mandated or safety sensitive job, if available and approved by the EAP. If assigned to such a position, the employee is expected to be at work and performing satisfactorily unless removed from duty by the EAP for treatment.

approved by the EAP. If assigned to such a position, the employee is expected to be at work and performing satisfactorily unless removed from duty by the EAP for treatment.

3. **Mandatory Testing During and After the EAP.** Employees enrolled in the EAP are subject to random drug and alcohol testing. Once an employee has successfully completed the EAP, they shall be subject to random drug and alcohol testing in the twelve (12) month period following their return to work.
- H) **Failing to complete the EAP.** An employee who has elected the EAP in lieu of termination, or who has self-referred to the EAP, who fails to successfully complete the EAP and all recommended follow up treatment will be terminated.

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SICK LEAVE BANK
AND
SICK LEAVE TRANSFER PROGRAM

Taos County Personnel Policy, Section 9.5 Sick Leave. ~~Delete paragraphs H. Wellness Incentive., H. Sick Leave Bank., and I. Contributing Sick Leave.~~ **Add the following:**

H) Sick Leave Bank. A Sick Leave Bank will be activated for Full-Time Classified and Unclassified Employees. Such an Employee may apply for sick leave bank hours only in the case of his or her extended absence due to catastrophic illness or disability that renders the Employee incapable of working or due to the catastrophic illness or disability of an immediate family member. "Catastrophic illness or disability" is defined as an illness or disability so severe as to require hospitalization or home confinement in excess of ten (10) days, or a chronic health condition requiring recurring medical treatments. A physician's written statement confirming the "catastrophic illness or disability" shall be required for submission by the Employee before he or she may utilize the Sick Leave Bank. A Probationary, Temporary, or Casual Employee and an Employee eligible for or receiving workers' compensation for his or her illness or injury may not participate in the Sick Leave Bank. When an Employee leaves County service, all accrued and unpaid sick leave will automatically be donated to the Sick Leave Bank.

Full-Time Classified and Unclassified Employees of the County shall be eligible to draw sick leave from the Sick Leave Bank under the following terms and conditions:

1. The Employee has worked for Taos County for at least one year; and
2. The Employee must have worked at least 1,250 hours during the twelve (12) months immediately preceding the request. Time worked does not include vacation, holidays, sick pay, unpaid leave, or any period of layoff.
3. Any period of employment preceding a break in service of seven (7) years or more is not counted toward the one (1)-year employment requirement.
4. Once an Employee has exhausted all of his or her accrued sick leave, compensatory time and annual leave, the Employee is eligible to draw from the Sick Leave Bank forty (40) hours per pay period for two (2) pay periods and thereafter twenty (20) hours per pay period for four (4) pay periods, thereby drawing from the Sick Leave Bank for up to six (6) pay periods. Said six (6) pay periods are not required to be consecutive, but they must be associated with the same illness and fall within a six (6)-month period.
5. Once an Employee draws any amount from the Sick Leave Bank, request for additional hours from the Sick Leave Bank by that Employee will be evaluated and decided by the County Manager.
6. Sick Leave Bank may only be utilized once in a five-year period, unless such extenuating circumstances exist as to warrant approval of successive use of the

Sick Leave Bank by the County Manager.

I) Sick Leave Transfer Program.

1. Employees who have accumulated sick leave in excess of 80 hours during a calendar year would be eligible to transfer to their annual leave balance up to 40 hours of sick leave per year at the value listed in section "e" below.
2. Employees who utilize the annual sick leave transfer program must maintain a sick leave balance of 120 hours after transferring any hours up to the maximum allowed above this amount.
3. Those employees who participate in this program may carry forward the annual leave transferred pursuant to this provision in addition to the maximum number of annual leave carried forward as set forth in Article 11, Paragraph C(5).
4. Annually, no sooner than January 1 and no later than January 15, employees who meet the criteria described above may elect to participate in the sick leave transfer program by completing the applicable forms.
5. The percentage value at which the sick leave may be transferred to annual leave is based upon the following:

Number of Sick Leave Hours Used Annually	Percentage Transfer Rate
24 hours or less	100%
25 hours to 32 hours	75%
33 hours to 40 hours	50%

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PROPOSED
DELETIONS FROM
POLICY

PERFORMANCE MANAGEMENT

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classified County service. If the employee does not satisfactorily complete the probationary period, the employee will be dismissed.

- a. A probationary employee can be terminated at any point during the probationary period.
 - b. A probationary employee cannot dispute or grieve disciplinary actions.
 - c. If the employee is hired to a full-time or part-time classified position, the first day of work shall be used in computing the beginning of the probationary period.
3. **Temporary Employee Hired to a Classified Position.** An employee hired to fill a temporary position who is subsequently hired to fill a classified position shall serve the required probationary period. The beginning date of the probationary period is the date the employee changes from temporary to probationary status. The County Manager may approve time served as a temporary to reduce the probationary period based upon a Department Director's recommendation.
4. **Former County Employee Hired to a Classified Position.** A former Taos County employee who is rehired more than six (6) months after termination, or rehired at any time to fill a position different from the one previously held, shall serve the required probationary period.

5.4 **PERFORMANCE MANAGEMENT.** To the extent that is reasonable and possible, personnel actions shall be directly related to employee performance. The Human Resources Director shall direct at least one formal performance evaluation for each employee per year. Performance management at Taos County will be geared toward increasing employee performance, productivity and accountability. Each supervisor or Department Director is expected to counsel employees on job performance, using the employee's job description as a reference, pointing out areas that need improvement as well as identifying outstanding factors.

A) **Policy.** It is the policy of the County that the job performance of each employee will be evaluated periodically by the employee's supervisor and at least annually.

1. **When to do an evaluation.** Supervisors shall complete a performance evaluation upon the following occasions:
 - a. As specified in this policy for probationary employees;
 - b. Annually during the month of May and submitted to Human Resources no later than May 31st;

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- c. When the employee is transferred or promoted to a new job;
- d. When the employee is assigned to a new supervisor; and
- e. When a reduction in force is necessary.
- f. If a performance appraisal has been completed within one month of the above occasions, a new appraisal does not need to be completed. Between scheduled appraisals, supervisors and Department Directors should discuss with employees on an informal basis any performance issues that require attention and should keep records of any significant incidents (SIR) in the PEP performance management program.

B) Procedures. In evaluating employees, supervisor or Department Directors should consider factors such as the experience and training of the employee, the job description, and the employee's attainment of previously set objectives and goals. Other factors that normally should be considered include knowledge of the job, quantity and quality of work, promptness in completing assignments, attendance, cooperation, initiative, reliability, judgment, conduct, and acceptance of responsibility. Specific factors shall be defined in the PEP performance management program and in each employee's specific evaluation instrument.

1. Supervisors and Department Directors should use the advanced features of the PEP performance management program when appropriate. This includes using significant incident records (SIR) during the performance period to document both high and lower than expected performance and specific performance objectives (SPO) to establish and evaluate important specific goals, projects or objectives.
2. Department Directors should review each supervisor's evaluations to help ensure that the evaluation function has been properly completed in as fair and objective a manner as possible.
3. After an evaluation has been reviewed by the Department Director, the supervisor and employee should meet and discuss the evaluation, assess the employee's strengths and areas needing improvement in a constructive manner, and set any SPO for the next evaluation period. The employee should be given the opportunity to examine the evaluation and make comments about any aspect. The employee and supervisor should then sign and date the evaluation and forward it to the Human Resources Department for review and inclusion in the employee's official personnel file.

C) Use of Performance Evaluations. Results of performance evaluations will be considered when making decisions affecting merit pay increases, performance incentive awards, training, promotion, transfer, or continued employment.

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6. using disparaging, demeaning or sexist terms to refer to any person,
7. making obscene gestures or suggestive/insulting sounds,
8. indecent exposure, and
9. suggesting or demanding sexual favors or activity in relation to any condition of employment

C) **Harassment Based on other Protected Categories.** The County will not tolerate any harassment or discrimination sexually related or otherwise. Any employee, manager or non-manager, male or female, who engages in any form of harassment, shall be subject to disciplinary action which may include reprimand, suspension, demotion, or dismissal.

D) **Prevention.** Prevention is the best tool for the avoidance or elimination of harassment. The County will take all steps necessary to prevent harassment or discrimination of any type from occurring and will take appropriate action when it is found to have taken place. To that end, the County will provide discrimination and harassment prevention training to all employees.

E) **Reporting.** Any employee who becomes aware of the occurrence of discrimination or harassment is required to report the matter through the most confidential and direct means possible to preserve morale and discipline among employees by: (a) making a statement of known facts in writing to an appropriate authority and (b) avoiding discussing the matter with co-workers and persons not directly responsible for investigating the matter.

F) **Filing Complaints.** Employees who feel they are the victims of harassment or discrimination shall go to the Human Resources Director who will document the complaint in writing and provide a copy to the complainant. The written complaint or allegation shall contain details regarding dates, times, places, and circumstances surrounding the incident(s), and witnesses.

G) **Investigation Procedures.** The Human Resources Director *or Deputy County Manager* will conduct a thorough investigation of the charge and may refer the case to an outside investigator. The investigation shall be complete, confidential and well documented; and shall include: (a) obtaining a written statement from complainant; (b) discussing the matter with alleged offender; and (c) obtaining statements from possible witnesses from both sides of the issue. Investigations will, if possible, be completed within ten (10) working days of receipt of the complaint. Upon completion, the Human Resources Director will submit the investigation report and recommendations to the County Manager for appropriate action.

Deputy County Manager or outside investigator

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- H) **Administrative Leave.** The accused employee and the accusing employee may be placed on administrative leave with pay during the investigation.
- I) **Filing with EEOC.** Nothing in this policy prohibits an employee from filing a complaint directly with the County Manager or the Federal Equal Employment Opportunity Commission (EEOC) or the New Mexico Human Rights Division (HRD).
- J) **Retaliation.** The County will not tolerate any form of retaliation against a complainant.

5.10 ILLEGAL USE OF DRUGS AND ALCOHOL

- A) **Policy.** Taos County does not tolerate the abuse of drugs and/or alcohol and strives to maintain a workplace that is free from the effects of drug and alcohol abuse. Employees are prohibited, under the Drug-Free Workplace Act of 1988 from the illegal use, sale, dispensing, distribution, possession, or manufacture of illegal drugs, controlled substances, narcotics, or alcoholic beverages on County premises or work sites. In applying this policy, the County will adhere to the antidiscrimination provisions of the Americans with Disabilities Act (ADA), the Rehabilitation Act, regulations established by the Department of Transportation, and New Mexico State Law.
- B) **Types of Testing.** Taos County will conduct Drug and Alcohol tests in compliance with accepted NADA testing standards in the following circumstances:
 - 1. **Post-Offer Testing.** To be hired by Taos County, job applicants must agree to participate in a post-offer drug and alcohol test. Employment is contingent on satisfactorily passing the post-offer test.
 - 2. **Post Accident Testing.** The County has a vital interest in maintaining safe and efficient working conditions for its employees and citizens. Employees under the influence of alcohol or drugs pose serious safety and health risks not only to the user but also to those in contact with the user. Therefore, the County shall conduct post-accident substance abuse testing.
 - a. **When Tests Will Be Conducted.** Drivers shall be tested when an accident has serious consequences for the employee or County. Drivers involved in the following types of accidents shall be tested:
 - (1) An individual dies;

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(2) An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident;

(3) One or more vehicles incur disabling damage because of the accident and are transported away from the scene by a tow truck or other vehicle; or

(4) The driver is involved in a citable accident. Citable accident means an accident in which the County driver received or could have received a traffic citation for causing the accident.

For the purposes of this policy, an "accident" shall mean an occurrence associated with the operation of a county vehicle or other heavy equipment such as backhoes, loaders, and graders.

- b. Post Accident Testing Procedures. As soon as practicable after a vehicular accident, the supervisor or designee will accompany the employee to a County approved drug and alcohol screening office for testing. A post accident drug and alcohol test may include breath, urine, and blood testing. If over two (2) hours elapses before testing, the supervisor shall prepare a report to the County Manager explaining why the drug and alcohol test was not promptly administered. Failure to promptly conduct a required drug and alcohol test may result in disciplinary action.
3. Random Testing. Federally mandated and safety sensitive employees are subject to random testing. The rules and procedures for random testing established by DOT and FMCSA will be followed.
4. Reasonable Suspicion Testing. An employee shall be required to undergo a drug/alcohol test if there is a reasonable suspicion that the employee is under the influence of alcohol or drugs. Circumstances which constitute a basis for determining "Reasonable Suspicion" may include, but are not limited to:
- a. A pattern of abnormal or erratic behavior;
 - b. Information provided by a reliable and credible source;
 - c. A work-related, non-vehicular accident involving injury to self or others;
 - d. Direct observation of drug or alcohol use; or
 - e. The presence of typical physical symptoms of drug or alcohol use (e.g., glassy or bloodshot eyes, alcohol odor on breath, slurred speech, sleeping on the job, and/or poor coordination and reflexes).

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- 1) **Reasonable Suspicion Testing Procedures.** The Department Director or a designated supervisor will accompany the employee to a County approved drug and alcohol screening office for testing. Results will be reported to the Human Resources Department after review and certification by the MRO. If the employee refuses to be tested or fails to show for a test, it will be considered a positive test.

C) Employee Categories.

1. **Federally Mandated Employees.** Federally mandated employees are those working under the rules of the U. S. Department of Transportation (DOT) and/or the Federal Motor Carrier Safety Administration (FMCSA). At Taos County these are employees whose job requires a Commercial Drivers License (CDL). Federally mandated employee are subject to pre-employment, post accident, random, and reasonable suspicion testing following the rules and procedures established by DOT and FMCSA.
2. **Safety Sensitive Employees.** Employees that are in designated Safety Sensitive positions are subject to pre-employment, post accident and reasonable suspicion testing. Designated Safety Sensitive positions include, but are not limited to, Adult and Juvenile Detention Officers, Emergency Medical Technicians, Sheriff's Deputies, Animal Control Officers, and Transport Officers.
3. **All Other Employees.** All other County employees are subject to post-offer, pre-employment and reasonable suspicion testing.

D) Positive Test Results.

1. **Applicants for Employment.** Applicants for employment who test positive for drugs or alcohol will be rejected for employment. Any applicant for employment who refuses to take a drug and alcohol test will be rejected for employment.
2. **Employees.** Any unclassified, probationary, temporary or casual employee who tests positive for drugs or alcohol will be terminated. A classified employee who tests positive for drugs or alcohol will be terminated with due process unless they elect to enroll in the County's Employee Assistance Program (EAP). Employees who elect to enroll in the EAP may use their accumulated annual leave, compensatory time, and sick leave to seek treatment. Employees who have elected the EAP in lieu of termination are not allowed use of the Sick Leave Bank. When all authorized leave is exhausted, they will be placed in a leave without pay status. Any employee who is not

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cleared to return to work within ninety (90) calendar days of referral to the EAP will be terminated.

E) Voluntary Self-Referral. The County strongly encourages any employee who believes or suspects that they may have a problem with drugs and/or alcohol to seek help from the Human Resources Department prior to any mandated drug and alcohol testing. The initial EAP screening is free to an employee. Any costs for required additional treatment shall be borne by the employee. Voluntary self-referrals may use annual leave, compensatory time, sick leave, the Sick Leave Bank, and unpaid administrative leave in order to complete the EAP. Self-referrals must be cleared to return to duty within ninety (90) calendar days of entering the EAP program or they may be terminated.

1. **Non-safety sensitive employees.** Non-safety sensitive employees will be referred to the EAP for evaluation. Such employees are expected to be at work and performing satisfactorily unless they have been removed from duty by the EAP for treatment.
2. **Federally-mandated and safety sensitive employees.** Federally mandated and safety sensitive employees will be removed from duty, placed in an appropriate leave status, and referred to the EAP for evaluation. Such employees may be assigned to a non-federally mandated or safety sensitive jobs, if available and approved by the EAP. If assigned to such positions, the employees are expected to be at work and performing satisfactorily unless removed from duty by the EAP for treatment.
3. **Mandatory Testing During and After the EAP.** Employees enrolled in the EAP are subject to random drug and alcohol testing. Once an employee has successfully completed the EAP, they shall be subject to random drug and alcohol testing in the twelve (12) month period following their return to work.

F) Sale, Use and Possession of Drugs. Any employee who illegally sells, purchases, or transfers drugs or any illegal substance while on duty shall be terminated. Any employee who, while on duty, possesses drugs or any substance in *Schedules I and II of the Controlled Substances Act NMSA 1978, Sections 30-31-41 (Repl. Pomp. 1994)* without a valid prescription or as otherwise authorized by law shall be terminated. Any employee who is caught consuming alcohol while on duty shall be terminated.

G) Failing to complete the EAP. An employee who has elected the EAP in lieu of termination, or who has self-referred to the EAP, that fails to successfully complete the EAP and all recommended follow on treatment will be terminated.

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- E) **Doctor's Certification.** An Employee may be required to show a doctor's certificate when the Employee has used over three (3) consecutive days of sick leave. An Employee may be required to submit a doctor's certificate for an absence from work due to illness of less than three (3) working days if the Employee's supervisor or the County Manager determines that a pattern of sick leave usage in conjunction with Holidays and days off is being established by an Employee. A doctor's certificate may be requested by the Elected Official/Department Director or the County Manager to support sick leave when a pattern of absences develops. Pattern of absence is defined as, but not limited to, when an Employee's attendance record shows a somewhat consistent sequence of absences, i.e. almost always Mondays, Fridays, Mondays and Fridays before and/or after Holidays, times of overtimes, certain week(s) of the month, or pay days. Failure to submit a doctor's certificate when requested will prohibit the Employee from receiving sick leave with pay for the period in dispute and may result in disciplinary action.
- F) **Reporting.** Sick leave shall be reported to the employee's supervisor by the employee or an immediate family member on a daily basis and as soon as possible but no later than one (1) hour after the beginning of the employee's work shift unless the nature of the illness requires extended leave and has been certified by the employee's physician.
- G) **Probationary Employees.** Probationary employees accrue sick leave in the manner set forth above. Use of sick leave shall be approved by the employee's supervisor on a case-by-case basis during the probationary period. A probationary employee may be dismissed for excessive use of sick leave.
- H) **Wellness Incentive.** Employees who accumulate more than sixty-four (64) hours sick leave in a calendar year are eligible to receive a cash payment for those days accumulated during the calendar year in excess of sixty-four (64) hours. Payment for the excess days will be made the first pay day in January. Days converted to pay shall be deducted from the employee's accumulated sick leave balance. Employees will be required to maintain a minimum of sixty-four (64) hours of sick leave in order to cash in any unused portion of sick leave pursuant to this article. No sooner than January 1st and no later than January 15th of each calendar year, the employees shall notify the Human Resources Department in writing of their intention to sell back the sick leave in excess of sixty-four (64) hours accumulated during the calendar year in accordance with this provision.
- H) **Sick Leave Bank.** A Sick Leave Bank will be activated for classified and unclassified Employees. When an employee leaves County service all accrued and unpaid sick leave will automatically be donated to the Sick Leave Bank. Also, any employee may donate unlimited accumulated sick leave so long as the donor employee maintains a minimum of sixty-four (64) sick leave hours in their leave record. An Employee may apply for sick leave bank hours in case of extended absences due to catastrophic

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illness/disability that renders the member incapable of working or due to the serious illness/disability of an immediate family member. Probationary Employees may not participate in the Sick Leave Bank. An Employee may apply for Sick Leave Bank hours for any of the events for which sick leave may be granted when the Employee has used all of his or her sick leave. "Catastrophic Illness" is defined as an illness or disability that has occurred that requires extended hospitalization or home confinement, and for which no worker's compensation is available. A Physician's certificate shall be required when the employee is requesting sick leave bank hours.

1. Classified and Unclassified Employees of the County shall be eligible to draw sick leave from the Sick Leave Bank under the following terms and conditions:
 - a. Once an employee has exhausted all of their accrued sick leave, compensatory time and annual leave, the employee is eligible to draw from the Sick Leave Bank forty (40) hours per pay period for two (2) pay periods and thereafter twenty (20) hours per pay period for four (4) pay periods, thereby drawing from the Sick Leave Bank for up to six (6) pay periods.
 - b. Once an employee draws any amount from the Sick Leave Bank, request for additional hours from the Sick Leave Bank by that employee will be evaluated and decided jointly by the Labor/Management Committee.
- I) **Contributing Sick Leave.** Any Taos county employee may contribute sick leave directly to another Taos County employee when the following criteria are met:
 1. The employee is in need of sick leave time due to a catastrophic illness or other critical circumstances.
 2. The employee in need has used all sick and annual leave.
 3. The contributing employee must maintain a balance of One Hundred and Twenty (120) sick leave hours.
 4. The sick leave hours will be transferred from one employee to another in hourly increments.
 5. Sufficient department funding is available.
- J) **Sick Leave Paid Upon Retirement.** Any Employee of the County, covered by this Bargaining Agreement, who has more than six hundred (600) hours of sick leave upon retirement from the County shall be paid for each hour in excess of six hundred (600) hours at the rate of one half (1/2) their hourly rate of pay at the time of retirement.

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Legal No. 12,912
**NOTICE OF
PUBLIC HEARING
BEFORE THE
TAOS COUNTY
BOARD OF
COMMISSIONERS
TO CONSIDER
PROPOSED
ORDINANCE 2012-6,
AMENDING TAOS
COUNTY PERSONNEL
POLICY
ORDINANCE 2006-1
(AS AMENDED BY
ORDINANCE 2011-2
and 2008-1)**

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Notice is hereby given that the Board of County Commissioners of Taos County, New Mexico, will conduct a public hearing at 9:00 a.m. on Tuesday, October 2, 2012, at the Taos County Commission Chambers, Administration Office Building, 105 Albright Street, Taos, New Mexico, to discuss and take action upon Ordinance 2012-6, amending Taos County Personnel Policy Ordinance 2006-1 (as amended by Ordinance 2011-2 and 2008-1). Amendments to be considered include policy changes relating to Performance Management and Evaluation, Discrimination and Harassment, Drug and Alcohol Free Workplace, Sick Leave Bank, and Sick Leave Transfer Program in lieu of Wellness Incentive.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the meeting, contact the County Administration Office at (575) 737-6300.

(Legal No. 12,912;
Pub. Sept. 13, 2012).

