

# **BAXTER COUNTY**

## **PERSONNEL POLICY**

(updated to include all amendments and revisions as of April 2017)

### **SECTION 01 – EMPLOYMENT POLICIES & PROCEDURES**

#### **I. PURPOSE AND SCOPE**

- A. The purpose of this document is to establish at-will employment as the default employment policy for the County and to state the General Employment Policies issued by the Quorum Court in its capacity as the legislative branch of County government. The General Employment Policies set forth herein apply uniformly to all County employees because they relate exclusively to “employee practices and policies of a general nature.” (Source: AG Opinion 2000-151)
- B. Executive Employment Policies are those adopted by an elected County officer to apply to the employees of that office in the course of administering “the day-to-day administrative responsibility” of his or her elected office. (A.C.A. 14-14-805(2)) An elected official can create and administer his own employee discipline measures subject, however, to the condition that these cannot contravene these general, uniformly applicable measures adopted by the Quorum Court. (Source: AG Opinion 2000-151)
- C. Every County employee is entitled to request a hearing before the County Grievance Committee in the event the employee believes that the executive decision of an elected official violates the Constitution, the Law, or the General Employment Policy duly adopted by the Quorum Court. (Source: AG Opinion 2000-151)
- D. Nothing in this General Employment Policy adopted by the Quorum Court creates a property right in employment nor establishes grounds upon which discipline or dismissal must be based.

#### **II. COUNTY EMPLOYMENT POLICY**

- A. Pursuant to its authority as the legislative branch of County government, the Quorum Court adopts “at-will” employment as the default employment policy for each County employee. At-will employment is not for a specific period and employment may be terminated at any time, without notice or liability of the kind (except for wages earned and unpaid) and with or without cause. Unless rehired by a newly elected supervising Elected Official, employment shall cease at the conclusion of the County’s biennium (December 31 of even-numbered years). If, notwithstanding this document, any employee contends that he or she has a property right in his or her employment or a substantial expectancy of continued employment (express, implied, written, or oral) until “just cause” exists for reduction or removal in pay or position,

- then that employee shall assert such contention at a “property right” grievance hearing requested in the time and manner set forth in this policy.
- B. It is the County’s policy to provide equal opportunity for all qualified persons; to prohibit unlawful discrimination in employment practices, compensation practices, personnel procedures, and administration of benefit plans; and otherwise provide the same or similar treatment and opportunities to all persons similarly situated.
  - C. The County is to treat all employees and citizens in a manner that is: 1) rationally related to the effectuation of legitimate County objectives and 2) uniformly to all persons similarly situated.
  - D. No official or employee of the County is to abuse or misuse his or her governmental power.
  - E. No official or employee is to engage in any overt act that is either illegal (contrary to applicable statutes or judicial rulings) or unconstitutional (contrary to the U.S. Constitution or the Arkansas Constitution).
  - F. No official or employee is to omit the performance of any duty that is affirmatively required by applicable laws (statutes or judicial rulings).
  - G. No official or employee of County government shall: “be interested, either directly or indirectly, and any contract or transaction made, authorized, or entered into on behalf of the County or an entity created by the County, or accept or receive any property, money, or other valuable thing, for his or her use or benefit on account of, connected with, or growing out of any contract or transaction of a County.” (A.C.A. 14-14-1202)
  - H. No official or employee of County government is to engage in any act that would constitute “incompetency, corruption, gross immorality, criminal conduct, malfeasance, misfeasance, or nonfeasance in office.” (A.C.A. 14-14-1311)
  - I. Each elected official of the County is to fully and completely administer the day-to-day affairs of his or her office of County government on behalf of the County, in a manner that is in accord with applicable laws (statutes or judicial ruling), the constitutions (U.S. and Arkansas), and this general County policy.
  - J. Use of deadly force against another person by the Sheriff or any Deputy Sheriff is limited to the following: 1) to effect an arrest or to prevent the escape from custody of an arrested person whom the officer reasonably believes: (a) there is probable cause to arrest the felony suspect; (b) the felon cannot otherwise be apprehended; and (c) the felon either: (i) had used deadly force in the commission of the felony; or (ii) would use deadly force against the officer or others if not immediately apprehended or (2) to defend himself or a third person from what he reasonably believes to be the use of imminent use of deadly force.

III. AFFIRMATIVE ACTION PLAN (Ordinance No. 1977-33)

- A. Equal Employment Opportunity Policy - The Baxter County Government will provide equal opportunity to all employees and applicants for employment, and will assure that there will be no discrimination against any person on grounds of race, age, color, religion, national origin, political affiliation or sex. This obligation extends to all areas of employment including, but not limited to the following: recruitment, placement, pay, promotion, disciplinary measures, demotions, termination, and working conditions. All contractors having contracts with Baxter County will agree to comply with Baxter County's Equal Employment Opportunity Policy.
- B. Communications - The County's equal employment opportunity policy statement shall be posted in all buildings where County employees work.
- C. Work Force Utilization Survey - A listing of all County employees will be established and maintained by the Payroll Office. The employee listing shall include positions and salary levels by male and female employees and shall be regularly updated.
- D. Goal - The Goal of the County will be to have a balance at all levels of employment among persons of each sex and race. When an imbalance occurs, a good faith effort will be made to restore said balance, as much as possible.
- E. Recruitment, Selection, Appointment and Placement - Recruitment for County Employees may include public announcements, use of employment related search engines (e.g. indeed.com/monster.com) and utilization of the Arkansas Department of Workforce Services.
- F. Grievance Procedure - Employees shall have the right to present grievances to the County Judge, with assurance of freedom from reprisal.

IV. BAXTER COUNTY ADA POLICY (Ordinance No. 2002-48)

Baxter County complies with the Americans with Disabilities Act (ADA) which prohibits discrimination against people with disabilities in employment, transportation, public accommodation, communications and governmental activities. The ADA also establishes requirements for telecommunications relay services.

The Department of Labor's Office of Disability Employment Policy (ODEP) provides publications and other technical assistance on the basic requirements of the ADA. It does not enforce any part of the law; however, there are four federal agencies that enforce the ADA:

- The Equal Employment Opportunity Commission (EEOC) enforces regulations covering employment.
- The Department of Transportation enforces regulations governing transit.
- The Federal Communications Commission (FCC) enforces regulations covering

telecommunication services.

- The Department of Justice enforces regulations governing public accommodations and state and local government services.

## V. CONSTITUTIONALLY PROTECTED CONDUCT

- A. It is the policy of this County not to violate the Constitution or the laws of Arkansas or the United States.
- B. Should any applicant or employee, or person requesting County assistance or services contend that he or she has been unlawfully discriminated against because of race, color, religion, gender, national origin, age, or disability; that he or she has been unlawfully punished for the exercise of a constitutionally protected liberty right (e.g., free speech, free association, political patronage, access to courts, privacy, etc.); that he or she has been treated in any other unlawful or unconstitutional manner, the applicant or employee shall request, in the time and manner set forth in this County employment policy, a “liberty right” hearing before the County Grievance Committee to provide time for the County’s final policymaker (with authority) an opportunity to research the alleged unlawful discrimination or unlawful punishment and to thereby have an opportunity to voluntarily conform the conduct of County officials and County employees to the requirements of County policy.
- C. Each full-time Baxter County Employee shall be permitted the privilege of carrying a firearm on County property, pursuant to Act 1259 of the State of Arkansas, within the guidelines of the plan created for Baxter County, Arkansas, as approved by the Baxter County Quorum Court on Ordinance No. 2016-14.
- Must possess a Concealed Carry license and provide the Baxter County Judge’s Office with a copy of the license
  - Must attend a Civilian Response to Active Shooter (CRAS) class offered by the Baxter County Sheriff’s Office

## VI. HIRING AND PROMOTING

- A. The at-will employment policy set forth herein applies equally to hiring and promoting. Nothing herein shall create a property right in employment, entitlement to be hired or promoted, or an expectancy of continued employment. Nothing herein establishes grounds upon which hiring or promoting must be based.
- B. Prospective employees who are required to register with the selective service system must certify compliance with the Military Selective Service Act as a condition for employment.

## VII. EMPLOYMENT APPLICATIONS

- A. The government of Baxter County is an equal opportunity employer and the County policy is to comply with the provisions of the Equal Opportunity Act of 1972, as well as other non-discriminatory state and federal statutory requirements.
- B. All hiring will be completed by Elected Officials or Department Head designated by an Elected Official, except as provided by law. (Note: The Arkansas Constitution, Amendment 55, 3, ACA 14-14-1101 (a)(6), authorizing the County Judge to hire County employees, except those persons employed by other Elected Officials of the County. ACA 14-14-1 102(5) (B) (ii)(h) states that “The jurisdiction to purchase the labor of an individual for salary or wages employed by other Elected Officials of the County shall be vested in each respective County official.”)
- C. The employment of persons by County officials shall be done only on the basis of past performance in previous jobs, special skills, qualifications, and abilities that would aid them to perform the job in a satisfactory manner.
- D. Applications for employment will be accepted from any person who wishes to apply upon approved forms provided by Baxter County. Applicants who are residents of the County will be given consideration over non-residents; all other qualifications being equal.
- E. Upon offering employment, the Elected Official or Department Head may require a physical examination of the applicant. A physician that normally performs examinations for the County will perform the physical examination at the County’s expense. The determination as to the applicant’s medical fitness for the job will rest solely on this physician.
- F. No Elected Official, Department Head, or supervisor shall be allowed to employ any relative in his immediate family to work within the County office or department he supervises and for which he is responsible. Immediate family shall include spouse, parent, child, brother, sister, grandparent, grandchild, mother-in-law, father-in-law, son-in-law, or daughter-in-law. The provision will be effective the date of adoption of these policies by County ordinance and shall not affect employees hired prior to adoption.
- G. Persons desiring to become full-time employees must be eighteen (18) years of age. In those cases where the County wishes to hire part-time help under the age of eighteen (18), applications shall be for occupations in accordance with all applicable state and federal regulations.
- H. County employees shall possess a social security number or shall have applied for such at time of employment and shall furnish proof that they are eligible to work in the United States as required by The Immigration Reform and Control Act of 1986 (for example, a birth certificate).

- I. Applicants shall possess or obtain at their own expense any special certification or permits that may be required by law to perform the job they are seeking (for example, a commercial driver's license or juvenile probation and/or intake officer certification). Exceptions will be made at the discretion of the Elected Officials and/or Department Heads.

## VIII. JOB POSTING POLICY

- A. Whenever a job opening exists within the County, it will be posted on the county's official web site and sent via email to Elected Officials and Department Heads for displaying in their respective departments. Employees with satisfactory performance evaluations and no written warnings within the past six (6) months who wish to apply, may obtain a transfer request form from Human Resources. Upon receipt of the completed form, the Human Resources department will notify the current supervisor of the request. Any employee selected for the position will be expected to work a minimum of two (2) weeks in their current assignment.
- B. Jobs will be posted for five (5) working days to ensure employees have sufficient time to learn of job vacancies. No requests will be accepted after the posting date has expired.

## IX. EMPLOYEE RESPONSIBILITY IN JOB POSTING

It shall be the responsibility of each employee who wishes to be considered for an open position and who meets the qualifications to:

- A. Contact the hiring department or Human Resources to request consideration during the posting period.
- B. Update their personnel file as necessary with reference to experience, training, education, and all other qualifying information.

## X. FILLING JOB OPENINGS FROM WITHIN THE COUNTY

- A. The County's philosophy is to provide all persons an equal opportunity to apply for positions where their skills and interests can be best used.
- B. All employees are informed of position openings in the County on the County website and are given the opportunity to apply for them.
- C. Some Exceptions to filling job openings from existing employees within the County:
  1. Positions requiring unique qualifications or expertise
  2. Reassignment of employees due to department, unit, or corporate reorganization

3. Temporary positions
  4. Reassignment due to health restrictions
  5. Positions that have been announced during the last ninety (90) days and were not filled due to lack of qualified applicants
  6. Positions normally filled by departmental progressions, for example: Accountant I to Accountant II
- D. The practice is not intended to limit managerial discretion in hiring qualified applicants.
- E. The hiring supervisor can arrange to recruit externally at the same time as internal candidates are being reviewed. The decision to hire externally should only be made after the hiring supervisor is satisfied that there are no interested qualified candidates internally. The intent is to provide a competitive advantage to internal candidates.

## XI. WORK REQUIREMENTS

- A. The normal working hours for administrative offices of the government of Baxter County are from 8:00 a.m. to 4:30 p.m. Monday through Friday, exclusive of authorized holidays. Normal business will be conducted during these hours.
- B. The County's standard work week for each employee is forty (40) hours, consisting of five (5) eight-hour work days. Law Enforcement personnel, Road & Bridge Department and Buildings & Grounds employees will have work schedules determined by the respective Elected Officials and/or Department Heads.
- C. Employees shall be in attendance at their respective places of work in accordance with the rules and hours established by the Elected Official or Department Head. All administrative offices will have at least one employee on duty during the hours outlined in paragraph A above.
- D. Each Elected Official or Department Head shall keep daily attendance records on each County employee. These records will be reviewed and signed by both the Elected Official/Department Head and the employee as to correctness prior to submission of the time sheet to the Payroll Office.
- E. Absence of an employee from work, including any absence for a single day or part of a day that is not authorized by the Elected Official or Department Head, shall be deemed to be an absence without leave. Any such absence shall be without pay and the employee who is absent for two (2) consecutive days without approved leave shall result in termination.
- F. No outside employment of a continual nature will be allowed, unless it is approved by the Elected Official and/or Department Head. Under no circumstances will a person

be allowed to work at a job which conflicts in any way with duties as a County employee.

- G. No employee shall engage in any private business in the activities of a profession during those hours for which he or she is being compensated by the County.
- H. A master personnel file shall be maintained on each employee by the Payroll Administrator. Elected Officials, Department Heads and Human Resources may also keep personnel related files on employees as needed.
- I. County employees may be recommended for promotion and/or salary increases by their immediate supervisor, subject to approval/disapproval by the Elected Official. Elected Officials may approve any step increase recommendations after ensuring appropriate funds are available. Changes to employee grade, including promotions, will be approved by the Quorum Court.
- J. Employees are requested to give the Elected Official and/or Department Head at least two (2) weeks written notice when resigning. The resignation should contain reasons for leaving the employment of the County. The employee's resignation shall be documented in the employee's personnel file.

## XII. NEW EMPLOYEE ORIENTATION

- A. When the hiring official has made the job offer and the job offer is accepted, the hiring official shall contact the Human Resources Office to schedule the newly hired employee for orientation and to ensure that all employees are equally informed concerning the benefits and policies of Baxter County employment.
- B. New employee data should be submitted to the Human Resources Office within three working days. An employee cannot receive a paycheck unless all paperwork is received by the Human Resources and Payroll Offices no later than the Wednesday preceding the day time cards are due.
- C. Departmental orientation will be provided for each new employee during the initial period of employment to familiarize each employee with his or her new work duties.
- D. The first 90 days of employment is considered a "Probationary Period." A satisfactory "Probationary Period" evaluation will be submitted to Human Resources after 90 days in order for the employee to receive his/her applicable step increase.
- E. The Immigration Reform and Control Act of 1986 requires that persons hired after May 31, 1987 complete a Form I-9 within three business days of the date of hire. (If a person is employed for less than three (3) days the Form I-9 must be completed before the end of the employee's first working day.)



## SECTION 02 – PAYROLL / PERSONNEL RECORDS

### I. PERSONAL DATA CHANGES

- A. Employees of the County are required to notify their supervisor at once whenever there is a change in their:
- Address
  - Telephone number
  - Person to notify in case of emergency
  - Name (through marriage or otherwise)
  - Marital status
  - Number of dependents
  - Insurance beneficiary
  - Military status
  - Direct Deposit Bank Account Information
- B. Each employee and his/her supervisor should also ensure that any changes listed above are provided to Human Resources and/or the Payroll Office to update these important records.

### II. EMPLOYEE COMPENSATION

- A. The policy of the County shall be to pay salaries based upon an employee's level of skill, responsibility, education, and experience. Such salaries shall also depend upon funds available to the County.
- B. The County is required by law to withhold taxes based upon information furnished by the employee at the time of employment. Any change in status which would affect tax liability or change in beneficiary should be reported to Human Resources and/or the Payroll Office (W-4, number of dependents, changes in group insurance coverage, etc.).
- C. Baxter County employees shall be paid bi-weekly. All employees shall be paid on an hourly basis, except elected officials, supervisors and administrators who shall be paid on a salary basis. For employees paid on a salary basis, their salaries shall be computed on an annual basis to be paid in twenty-six (26) equal payments.

### III. COMPENSATORY TIME AND OVERTIME (*Ordinance No. 2015-42*)

Baxter County administers overtime and compensatory time pay policies in compliance with the Fair Labor Standards Act (FLSA). The FLSA is a federal law that governs the payment of minimum wage, overtime rates, compensatory time, recordkeeping of hours worked, and other criteria relating to wages and hours of work for exempt and non-exempt employees, including government employees. Section 3(s)(1)(C) of the FLSA covers all

public agencies of a State, a political subdivision of a State, and an interstate government agency.

A. Definitions:

**Compensatory time off:** paid time off the job which is earned and accrued by an employee in lieu of immediate cash payment for employment in excess of the statutory hours for which overtime compensation is required by Section 7 of the FLSA.

**Unduly disrupt:** an unreasonable burden on the department or office's ability to provide services of acceptable quality and quantity for the public during the time requested without the use of the employee's services.

- B. The normal work period shall be forty (40) hours per week for all employees. As authorized by the FLSA, compensatory time will be allowed for non-exempt and exempt employees for time worked in excess of the normal work period. This provision of compensatory time will be provided in lieu of overtime pay.
- C. All employees who work in excess of forty (40) hours will be permitted to use accrued compensatory time or receive overtime pay at a rate of one and one half (1-1/2) hours for each one (1) hour worked over the 40 hours. (*see FLSA, Title 29, Part 541 of the Code of Regulations*). Overtime for all employees shall only be worked upon prior approval of the Elected Official or Department Head. When calculating overtime hours, only time actually worked may be counted toward overtime. Holidays, sick or vacation days, or any paid leave day taken during that week may not be included in overtime calculations.
- D. If the employee desires to use accrued compensatory time, he/she should make the request to his/her immediate supervisor at least three (3) days prior to the time off. Approval of the compensatory time off is at the discretion of the Elected Official or Department Head, and the employee's absence should not unduly disrupt service to the public.
- E. Non-Emergency Services Employees who are classified as "non-exempt" under the FLSA shall accrue no more than forty (40) hours of compensatory time. If accrued compensatory time exceeds forty (40) hours, the Elected Official or Department Head has the option of paying the employee for the excess hours at the appropriate rate of compensation. Overtime pay is allowed only when the budget of that particular department or office is sufficient to cover the expense of the overtime. Compensatory time is to be used prior to the end of each calendar year in an effort to minimize any potential financial liability from one year to the next year's accounts/budget. Compensatory time can be carried over to the next year with Elected Official's approval.
- F. It is the responsibility of Elected Officials and Department Heads to make every effort to keep overtime pay and accrued compensatory time within manageable levels.

- G. All Elected Officials and Department Heads shall maintain and give written approval on all timesheets to be filled out by each employee in his/her department. If the Elected Official or Department Head fails to submit the required approved timesheets on a bi-weekly basis to the Payroll office, the County Clerk is not to issue paychecks for that pay period to the employees in that particular office or department.
- H. Compensatory time records for each department will be kept by the County Clerk. These records will show all compensatory time accumulated and all compensatory time taken by all employees.
- I. The County Clerk's office will provide a written report on a monthly basis to the County Judge as to the amount of accrued compensatory time to make sure that unapproved overtime liability is not incurred.
- J. The County requests that any compensatory time incurred in any twenty-eight (28) day work period be used by the employee at the earliest possible time, not to exceed one-hundred fifty (150) days, without the approval of the County Judge.
- K. At separation of employment, the employee shall be paid for all unused accrued compensatory time at his/her most current hourly rate of pay.

#### IV. ESTABLISHMENT OF NEW POSITIONS

- A. The following policy describes the steps that a Department Head or Elected Official must take to add a new position to a department's table of organization:
  - 1. Work volume has materially and permanently increased due to additional functions assumed by the department. Under these circumstances, a request for a "new position" may be submitted (position control card).
  - 2. Work volume has temporarily or seasonably increased or the department has undertaken a special project or temporarily assumed additional functions. Under these circumstances, a request may be made for a "temporary position." A temporary position may be authorized up to a maximum of six months.
  - 3. An additional employee is required for coverage during a vacation period. In this case, a request may be made for a "temporary position" with a predetermined end date.
  - 4. A request for leave of absence relief coverage is handled as a request for a new position. An employee hired to fill a position whose incumbent is on a leave of absence is assigned to that same position. Leave of absence relief requests should therefore be specific concerning the status of the incumbent's position, i.e., full-time, part-time, etc.
  - 5. Where the situation requires less than a full-time addition to the department's table of organization, the request may be for a part-time, regular or temporary position as appropriate.

## V. DEFINITIONS AND APPLICATION TO PAY SCHEDULE

- A. Across-the-Board Raises – In the event that the Quorum Court determines that sufficient justification exists, they may approve across-the-board raises for all employees. In this event, the entire pay table would change accordingly, and each employee would receive the appropriate increase; however, there would not be any change in an employee's grade or step – the pay amount in each grade and step would change.
- B. Promotion – Assignment to a vacant position that is within a higher pay grade than the employee's previous position. If an employee is promoted to a position which is one pay grade higher than his/her previous position, he/she will be paid at the step within the higher grade that gives him/her a 3% increase. If the promotion is to a position which is two or more pay grades higher than his/her previous position, he/she will be paid at the step that gives him/her a 9% increase. Step 1 will apply in all cases where it meets or exceeds these increases.

## VI. JOB DESCRIPTIONS

- A. There are written descriptions of all jobs in Baxter County Government. These descriptions tell the principal function, major duties, and responsibilities, along with the educational and experience requirements and working conditions of each position. In addition, for an employee to know what the County expects of him/her in the performance of the job, performance standards have been developed for each job. These standards of performance are measurable criteria by which each employee's professional performance is evaluated.
- B. All jobs are classified based on duties and responsibilities, skill required, and job demands. For every classification, a salary range has been assigned giving the minimum and maximum rates for the position.

## VII. STEP INCREASE GUIDELINES (*Ordinance No. 2007-16*)

Baxter County has established a Step and Grade system for placing all employees on a pay scale in an effort to compare salaries within and between departments, as well as comparison with other similar businesses. The Step and Grade scale is not published in this manual, as it is subject to periodic change. A copy of the current schedule can be obtained from the County web site and/or County Clerk's office.

- A. To receive a step increase, an employee must:
  - 1. Receive a satisfactory 90-day Probationary Period or Annual performance evaluation

2. Complete the required time between steps
- B. Final determination on the awarding of a step increase will be made by the Elected Official.
  - C. Time in grade will commence on the day an employee enters that grade. Elected Officials will be responsible for maintaining records to insure evaluations are completed on time.
  - D. A new employee meeting job description criteria may be hired at the base grade for that particular position. Step credit advancement may be applied up to nine (9) steps over base (27%), for previous experience or college education obtained IN THE FIELD for which the applicant is being hired into and at the discretion of the hiring Elected Official. One (1) step may be applied for each two (2) years of experience or related college education.

Examples:

- Deputy I applicant with two (2) year college degree in Law Enforcement could be hired at Step 1 over base (3%).
  - H.E.O. certified, with eighteen (18) years experience could be hired at Step 9 over base (27%) [Maximum example]
  - Jailer with six (6) years experience could be hired at Step 3 over base (9%).
  - Deputy Clerk with four (4) year accounting degree could be hired at Step 2 over base (6%).
- E. If an elected official elects to grant credit for experience/education as per Section D above, he/she will document the step increase justification on the Notification of Personnel Action form.

## VIII. RECLASSIFICATION

- A. Change in a position from one pay grade to another based on factors listed in paragraph B (below) is defined as reclassification. An employee who currently occupies the position being reclassified will be paid at the appropriate grade for the newly classified position. The employee shall retain his/her previous step in grade up to a total increase or decrease not to exceed 10%. Should a reclassification be so substantial to cause an employee to increase or decrease more than 10% from the previous wage, the employee will be repositioned along the horizontal step chart to ensure a 10% increase or decrease is not exceeded. In no case shall an employee be paid less than the base step for that newly assigned pay grade.
- B. Reclassification of a position is appropriate when:

1. An employee's position has been inappropriately classified in terms of the duties, responsibilities, working conditions, and qualification requirements of assigned work.
  2. The content of an employee's position has changed so that the classification is no longer appropriate in terms of the duties, responsibilities, working conditions, and qualification requirements of assigned work.
  3. Significant differences become apparent among positions that have been given the same job classification.
  4. Economic factors render a specific pay grade for a particular position unfeasible.
- C. The following steps are taken to affect a reclassification:
1. The Department Head initiates a review of the position involved and recommends a revised classification to the Baxter County Personnel Committee.
  2. The Personnel Committee will review the reclassification request by analyzing the proposed job description for the position sought.

#### IX. REDUCTION OR REMOVAL OF PAY OR POSITION

- A. A County Elected Official may reduce or remove pay or position for any reason that is rationally related to the effectuation of any conceivable legitimate County objective.
- B. It is not possible to list all "rational bases" for reduction or removal of pay or position; however, examples include (without limitation):
1. Misrepresentation, dishonesty, or self-dealing conduct.
  2. Intemperate conduct.
  3. Insubordination, including the failure or refusal to follow the orders of your supervisor or other supervisors.
  4. Negligent, reckless, knowing, or intentional destruction of County property.
  5. Abuse or misuse of your position as a County employee.
  6. Any conduct, acts, or omissions that interfere with or impair your ability to properly and effectively perform your duties as a County employee.
  7. Any rational change in the mode or manner of operations, including any rational decision regarding the persons selected by the Elected Official for the delivery of County services.

## **SECTION 03 –BENEFITS**

Eligibility for vacation leave or other employee benefits does not create any property right in employment or any expectancy of continued employment.

### **I. MEDICAL INSURANCE**

- A. Baxter County may, at its discretion, provide a plan of group medical and dental insurance to County employees. Part-time (less than 30 hours per week) or seasonal employees (fewer than 90 days per year) are not entitled to participate in the County's insurance plan.
- B. The cost of coverage for the employee may, at the County's discretion, be paid by Baxter County. Coverage for the families of individual employees may be provided, if desired, by the employee and shall be at the employee's expense.
- C. Continuation of coverage for employees who would otherwise lose coverage as a result of certain events will be offered coverage in accordance with regulations resulting from the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) and the Tax Reform Act of 1986. The COBRA publication can be obtained from the US Department of Labor.

### **II. FAMILY AND MEDICAL LEAVE ACT (FMLA) POLICY**

#### **A. Purpose**

The purpose of the Family and Medical Leave Act (FMLA) of 1993 is to balance the needs of families with the demands of the workplace. It was designed to promote our country's interest in preserving family unity while accommodating the legitimate interests of employers.

#### **B. Equality**

The FMLA legislation seeks to minimize the potential for employment discrimination based on gender consistent with the Equal Protection Clause of the Fourteenth Amendment by assuring that leave is available when necessary for both men and women.

#### **C. Twelve Weeks Unpaid Leave**

The County will grant up to twelve (12) weeks of unpaid leave per year to employees who need to care for family members.

#### **D. Qualifying Employees**

An employee must have been employed for at least twelve (12) months and worked at least 1,250 hours during the previous twelve (12) months to qualify for FMLA leave.

E. Purposes for Which Leave Can Be Taken

Employees who meet the applicable time of service requirements are entitled to take up to twelve (12) weeks (during a rolling 12 month period measured backwards from the employee's most recent requested leave) unpaid FMLA leave a year for:

1. The birth of an employee's child.
2. The placement of a child with the employee for adoption or foster care.
3. To care for the employee's spouse, child, or parent who has a serious health condition.
4. A serious health condition rendering the employee unable to perform his or her job.

F. Intermittent Leave

The employee may take leave intermittently or on a reduced work schedule when medically necessary due to the employee's or a family member's illness.

G. Notice Required

The employee is to provide the Elected Official, Department Head and/or Human Resources at least thirty (30) days notice, if possible, of the intention to take leave.

H. Medical Certification

The County requires medical certification that the leave is needed due to the employee's own serious health condition or that of a family member. The County, at the County's expense, may require a second medical opinion. If the first and second opinions differ, the County may request a third opinion, at the County's expense, which is then binding.

I. Continuation of Benefits

The County will continue the employee's health insurance under the same conditions as if the employee were working. Under this circumstance, the employee will still be required to pay his or her share of the premium if the County's health insurance plan provides for such co-payments. Leave under this Act is not a "qualifying" event under COBRA. If the employee does not return to the job, the employee shall be liable to the County for repayment of the health insurance benefits paid by the County during the employee's FMLA leave.

J. Return to the Job



Upon returning from leave, an employee is entitled to be restored to the same or equivalent position with equivalent pay, benefits and other terms and conditions of employment.

K. Concurrent Leave

FMLA leave will automatically run concurrent with all other available leave time, (e.g., sick leave, maternity leave, vacation, etc.)

## **SECTION 04 – LEAVE WITH PAY / LEAVE WITHOUT PAY**

### I. VACATION (Ordinance No. 2015-42)

The County provides vacation leave benefits to all regular, full-time employees who work a normal work week. Temporary (less than 90 days per year) and Part-Time employees (less than 80 hours per month) shall not be eligible.

#### 1. Requirements for Vacation Leave

- Vacation leave is subject to scheduling and approval by the Elected Official or Department Head in accordance with work schedules.
- An employee must give appropriate notice to his/her supervisor when requesting vacation leave.
- Pay for vacation leave will be at the employee's regular rate of pay at the time the leave is taken.
- Employees cannot accrue vacation days while on leave of absence without pay. Vacation leave accrual will resume on the first full day the employee returns to work.
- Vacation leave will accrue while an employee is on approved paid sick leave.
- If an employee is on approved vacation leave and becomes ill, he/she may continue to use vacation leave or use sick leave. The Elected Official or Department Head may require documentation for sick leave.

#### 2. Eligibility

Service Credit	Vacation Accrual per Year
1-year anniversary	40 hours
2-year anniversary	80 hours
5-year anniversary	120 hours
15-year anniversary	160 hours

Earned vacation time may be carried over into the following year, based upon the anniversary date of the employee, in an amount not to exceed forty (40) hours.

At separation of employment, regular full-time employees who have been employed by the County continuously for one (1) year or more shall be paid for all unused accrued vacation time at his/her most current hourly rate of pay, not to exceed one year's allowance of vacation time as defined above.

## II. PERSONAL DAYS (*Ordinance No. 2015-42*)

- A. All regular full-time employees who have completed thirty (30) days of continuous employment shall receive two (2) paid Personal Days off. These two Personal Days shall be awarded annually on the anniversary date of the employee. Eligible employees should submit their request for time off for these days within a reasonable period of time, and approval given by the immediate supervisor. Personal days off not used within one year may not be carried over past the employee's anniversary hire date.
- B. *Continuous service* as mentioned above is defined as uninterrupted employment while working as a regular full-time employee of the County. Leave of absence without pay shall not interrupt continuous service, except for the actual time off. If extenuating circumstances exist, a determination shall be made by the Quorum Court.
- C. Scheduling of vacations shall be done by the Elected Officials and Department Heads with due regard for the desires of the employee and the needs of the office or department. Vacation leave shall be charged against employees in not less than one-half day units. Earned vacation time may be carried over into the following year in an amount not to exceed forty (40) hours.
- D. Vacation leave scheduled by an employee, which could not be taken due to circumstances beyond control of the employee, may be taken in the following year. Scheduling of the vacation leave will be subject to the discretion of the employee's supervisor.
- E. Vacation time and Personal Days will not be changed for cash, except in the following circumstances:
  - 1. The surviving members of a deceased employee's family will be paid his or her accrued leave. Such payment shall be made first to the deceased's surviving spouse; second, to another person designated by him or her in writing and filed with the County Clerk; and third, in the absence of a surviving spouse and written designee, to the estate of the deceased employee.
  - 2. Regular full-time employees who have been employed by the County continuously for one (1) year or more, who resign from the job in good standing, shall be compensated for vacation and Personal Days accrued up to the date of resignation, but not to exceed one (1) year's allowance of vacation time and Personal Days as defined above. Resigning employees will be paid at their current rate of pay for unused vacation time and Personal Days.

## III. DONATION OF PAID LEAVE (*added August 2013*)

Baxter County Government allows employees to donate vacation leave to other county employees who do not have sufficient accumulated paid leave credits to meet a verifiable, catastrophic circumstance as noted below. While the County establishes a mechanism for

such leave transfers, participation is entirely voluntary and donations are anonymous, unless donors elect otherwise. The supervising Elected Official shall make the final decision to either approve or disapprove applications for the donation of paid leave.

Situations in which the donation of paid leave may be requested include:

- Catastrophic illness or injury of an employee;
- To care for a catastrophically ill or injured family member;
- To deal with the death of a family member;
- To address a catastrophic casualty loss suffered due to a terrorist attack, fire, or other natural disaster

#### A. Definitions

1. Catastrophic Illness or Injury: An illness or injury that is physically debilitating or life threatening and requires the employee's absence from work.
2. Family Members: For the purposes of this program, a family member is defined as: spouse, domestic partner, children (including children of employee's domestic partner), parents, siblings, grandparents and grandchildren. Step-relatives, in-laws, and relatives by adoption are included.
3. Paid Leave Credits: For the purposes of this program, only vacation leave and compensatory (comp) hours may be donated. Sick leave may not be donated.
4. Recipient: The employee who is eligible to accrue and use vacation, has exhausted all paid leave credits, and is in need of extending his/her salary and benefits temporarily.
5. Donor: The employee who is donating vacation time to another employee.

#### B. Qualifying Situations

1. The DONOR (donating employee) must:
  - Be an employee of Baxter County Government
  - Be in a position that accrues vacation leave
  - Have accrued sufficient vacation leave and/or compensatory time to cover the amount of the donation to be made (leave may not be donated prior to accrual)
2. The RECIPIENT (receiving employee) must:
  - Be an employee of Baxter County Government
  - Have obtained non-probationary employee status
  - Have exhausted all paid leave credits (including sick, vacation, compensatory time, and all other paid leave)

C. Minimum and Maximum Donations

1. Each donation of vacation leave must be a minimum of 1 hour, with any additional time donated in whole-hour increments.
2. The recipient may receive vacation time up to, but not exceeding, their regular scheduled hours. In other words, the recipient's paycheck should not exceed the amount of their regular paycheck.

D. Pay Level of Donating or Receiving Employee

1. Contributions can be made to employees at a higher or lower pay level because donations are transferred on an hour-for-hour basis (not on a dollar-for-dollar basis).

E. Responsibility of Department Head, Elected Official, or Designee

1. Determine if the recipient is eligible to participate in the program and obtain documentation verifying the specific need.
2. Verify that all paid leave has been exhausted by the recipient and that the donor has sufficient paid vacation leave and/or compensatory hours.
3. Complete the *Application for Donation of Vacation Leave* form (available from Human Resources) and attach supporting documentation.
4. All completed applications with required attachments must be signed by the Elected Official and then submitted to the Payroll Office for processing. The Payroll Office will ensure that the appropriate transfers are made and paid leave account balances are updated accordingly.

F. Responsibility of Recipient

1. Obtain the appropriate medical verification and submit to the supervising Department Head, Elected Official, or Human Resources.
2. Agree to use the paid leave credits donated; and if any credits are not used, it is understood that they must be returned to the Donor.

IV. SICK LEAVE

- A. All regular full-time employees of the County are eligible for 8 hours of sick leave with pay per month while working with a maximum benefit of ninety-six (96) hours per year. This earned sick leave can be carried from year to year with a maximum of seven hundred and twenty (720) hours accumulation. Sick leave does not accrue while employee is on extended sick leave.

- B. An employee may be eligible for sick leave for the following reasons:
1. Personal illness or physical incapacity resulting from causes beyond employee's control.
  2. Quarantine of an employee by a physician or officer to comply with community health regulations.
- C. An employee who is unable to report for work due to previously mentioned reasons, shall report the reason for his or her absence to his or her supervisor or someone acting for his or her supervisor within four (4) hours from the time he or she is expected to report for work. Sick leave with pay shall not be allowed unless the report has been made and the Elected Official or his/her representative has approved the report.
- D. Full-time County employees shall receive paid sick leave if their absence is due to personal illness, injury, or quarantine for the duration of the employee's absence, or until accumulated sick leave is used, provided the following:
1. The County employee has not been terminated before the absence.
  2. The County employee's illness or injury is not attributed to:
    - Intentionally self-inflicted injury
    - Drug or intoxicant addiction
    - Illness or injury committed while committing a felony
    - Illness or injury resulting from paid employment of any kind other than the County
- E. A written statement by a physician certifying that the employee's condition prevented him or her from appearing for work may be required by the Elected Official or Department Head.
- F. Truthful evidence of full justification for every absence receiving sick leave benefits must be presented when requested to the Elected Official or Department Head. If an employee accepts sick leave benefits based upon false evidence, the employee will be terminated.
- G. Absence for a part of the day that is chargeable to sick leave pay in accordance with these provisions shall be charged in the amount of time actually taken, rounded in quarter hour (0.25) increments.
- H. An employee who uses all the sick leave benefits for which the employee is eligible and still has not returned to work, shall be placed on an inactive employee status without pay, unless additional circumstances justify exceptional action by the Quorum Court. The Elected Official will be notified any time an employee consumes all accrued leave.
- I. Any employee who works for the County for five (5) consecutive years or longer and

leaves the County's employ for any reason, other than termination, shall be entitled to payment for unused sick days at a rate of one (1) day of pay for each four (4) accumulated days.

Example:

Employee has five (5) years service and leaves with sixty (60) days accrued sick time:  $60 \div 4 = 15$  days x his/her current rate of pay.

- J. Any employee who works for the County for ten (10) years or longer who leaves or retires shall be entitled to one (1) day pay for each two (2) days accumulated sick time.

Example:

Employee has ten (10) years service and leaves with eighty (80) days accumulated sick time:  $80 \div 2 = 40$  x his/her current rate of pay.

- K. All leave taken by employees for any purposes other than sick leave outlined above and emergency leave listed in another portion of the Personnel Policy Manual will be charged against vacation time. Upon exhaustion of paid vacation time, employee may, at the discretion of the Elected Official or Department Head, be granted leave without pay for a period of not more than one (1) year. Otherwise, the employee shall be terminated.
- L. County seasonal or part-time employees shall not earn paid sick leave.
- M. A full-time employee, when sick, will not have sick leave time reduced to pay for a holiday, vacation, or approved absence if it falls during the time of illness. Such days will be treated as if the employee were not ill.
- N. A full-time employee shall receive sick leave pay at the rate of the employee's regular base salary.

V. MILITARY LEAVE

In the time of war or national emergency, full-time employees are entitled to receive a leave of absence without pay upon joining or being called into the military services of the United States. Employees are entitled to this leave for as long as they are on active duty with the Armed Forces unless they become members of the Regular Armed Forces. After receiving an honorable discharge or its equivalent, they will have the right to return to their previous position with the County, within thirty (30) days following separation from the military. Members of a reserve component of the Armed Forces are entitled to attend encampments or training if called. When called, the employee shall present the military orders to his or her supervisor. Military leave with pay shall not exceed fifteen (15) working days per calendar year. Any additional time required shall be allowed as leave without pay.

VI. MATERNITY LEAVE

Employees are entitled to take up to twelve (12) weeks unpaid FMLA leave a year. Refer to the FMLA guidelines in Section 3.

VII. EMERGENCY LEAVE

Emergency leave with pay up to a maximum of three (3) calendar days in case of death or imminence of death in the immediate family may be granted. Two (2) days travel time may be granted upon prior approval of the supervising Elected Official, in addition to the three (3) days, when the employee must travel a long distance. Any additional leave will be considered unpaid leave of absence. Immediate family may be defined as spouse, parent, brother, sister, child, grandparent, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law.

VIII. OCCUPATIONAL INJURY LEAVE

- A. Any employee who is on leave arising from occupational injury while performing work for the County shall receive full salary the first seven (7) days.
- B. The County shall have the employee's name placed on an inactive status without pay, unless additional circumstances justify action by the Quorum Court.

IX. ACCIDENTAL INJURY LEAVE

- A. If an employee is covered by the County's health and accident insurance and is eligible to receive payment from that policy for loss of work time due to an accident, the employee will receive the difference between regular salary and the amount payable under the insurance coverage.
- B. Such payment for sick leave will last as many days as the employee has accumulated and the amount of sick leave charged to the employer is determined by the ratio of regular salary to the amount received for loss of work time under the County's policy.

X. JURY DUTY OR WITNESS LEAVE

County employees may be excused from work with pay without charge to earned leave, if subpoenaed as a witness or jury member in a court case. Full-time employees on a jury or witness leave shall receive their regular pay and retain all jury fees. The County shall not apply jury or witness leave to cases where the employee is personally involved in a suit or litigation.



XI. HOLIDAYS (Ordinance No. 2015-42)

A. The following paid holidays shall be observed:

- New Year's Day
- Presidents' Day
- Memorial Day
- Independence Day
- Labor Day
- Veterans' Day
- Thanksgiving Day and the Friday following
- Christmas Eve Day
- Christmas Day

B. When a holiday falls on a Sunday, the following day will be observed as a holiday. When a holiday falls on a Saturday, the preceding day will be observed as a holiday.

C. To receive holiday pay, employee must work the regularly scheduled working day before and the regularly scheduled working day following said holiday unless the time off before or after the holiday is an approved leave as detailed in the guidelines of this policy.

D. Seasonal or part-time employees are not eligible to receive paid holidays.

NOTE: WITH REGARD TO THE VACATION, SICKNESS, AND OTHER FRINGE BENEFITS OUTLINED HEREIN, IT MUST BE UNDERSTOOD THAT THESE BENEFITS ARE NOT REQUIRED BY LAW NOR ARE THEY GUARANTEED BY THE COUNTY. NO CONTRACT IS ENTERED INTO BY THE COUNTY WITH ANY EMPLOYEE, NOR DOES THE COUNTY INCUR ANY DEBT OR OBLIGATION.

## **SECTION 05 – SERVICE AND AWARDS**

### **I. EMPLOYEE SERVICE AWARDS**

- A. Baxter County desires to recognize the dedication and devotion to the County through appropriate service awards. Employees will receive monetary awards for service at a rate of \$50.00 per year at 5, 10, 15, 20, 25, 30, 35, 40, 45 and 50 years, as follows:

5 years-	\$250.00	30 years-	\$1,500.00
10 years-	\$500.00	35 years-	\$1,750.00
15 years-	\$750.00	40 years-	\$2,000.00
20 years-	\$1,000.00	45 years-	\$2,250.00
25 years-	\$1,250.00	50 years-	\$2,500.00

- B. Service awards are determined by total years worked since adjusted employment date. Employment dates are determined by subtracting significant leaves of absence and minor broken service absences.
- C. The Human Resources Department is responsible for the administration of this program.
- D. Eligible employees will receive their monetary service award in a separate check on the regular pay day, according to the pay period in which their anniversary hire date occurs.
- E. Each department is encouraged to implement a ceremony (either formal or informal) to recognize employees who receive service awards in their respective departments.

## **SECTION 06 – RETIREMENT**

### **I. RETIREMENT PLAN**

Baxter County shall provide a retirement plan for each County employee. An employee is eligible to receive service credit if he or she was hired with the intent of working more than ninety (90) consecutive calendar days and the equivalent of ten (10) eight-hour days per month (80 hours) and is not eligible for participation in any other existing state-authorized retirement plan.

A. Service credit is earned as follows:

- An employee is to receive 1 month of service (at least 80 hours worked)
- An employee is to receive 3/4 month of service (60-79 hours worked)
- An employee is to receive 1/2 month of service (40-59 hours worked)
- An employee is to receive 1/4 month of service (20-39 hours worked)
- An employee is to receive 0 months of service (less than 20 hours worked)

## SECTION 07 – EMPLOYEE CONDUCT

### I. CODE OF ETHICS

- A. The holding of public office or employment is a public trust created by the confidence which the electorate reposes in the integrity of officers and employees of County government. An officer or employee shall carry out duties assigned by law for the benefit of the people of the County. The officer or employee may not use their office, the influence created by their official position, or information gained by virtue of their position, to advance their individual or an immediate member of their family, or an associate's personal economic other than advancing strictly incidental benefits as may accrue to any of them from the enhancement or administration of law affecting the public generally. (A.C.A. 14-14-1202)
- B. The efficiency and effectiveness of County government depends on public trust and confidence. To maintain this trust, conformance to the standards is expected of each County employee. Violation of this *Code of Ethics* will result in disciplinary action or dismissal.
1. County employees shall not grant any special consideration or advantage to individuals or groups beyond that which is available to every other individual group.
  2. County employees shall not engage in conflict of interest activities that prove to be incompatible with assigned duties, bring discredit upon the County, or give them an advantage in their outside activities over persons working in similar vocations.
  3. County employees shall not accept gifts, services, gratuities or favors, or engage in trading or bartering with those in custody or their families or friends.
  4. County employees shall not use any County funds, supplies, or facilities for purposes other than to conduct official County business.
  5. County employees shall not use official positions to receive special favors for themselves or others.
  6. County employees shall exercise care and emphasize safety in the use of County property and equipment.
  7. County employees shall keep themselves physically fit, mentally alert, neat, and clean, and shall perform their duties fairly, impartially, and in a professional manner. Working under the influence of alcohol or any other narcotic or controlled substance shall result in absolute dismissal.
  8. County employees shall conduct themselves, both on the job and off duty, to command the respect of fellow workers and the public.

9. County employees shall not display prejudice against persons or organizations, thus affecting cordiality or contacts with other employees or the public.

## II. EMPLOYEE DRESS AND GROOMING STANDARDS

- A. The personal grooming, hygiene, and attire of employees reflects not only personal attitudes, but also the image of the County. Personal neatness, cleanliness, and appropriate apparel will facilitate the conveyance of a professional image to the public. This policy stresses the importance of appropriate dress. Due to the service nature of the County, each department has determined standards of personal appearance and personal apparel. Employees are responsible for complying with all departmental uniform requirements and dress codes.
- B. Uniforms and/or appropriate attire should be in good condition, neat and clean, wrinkle-free and of appropriate size and fit. Employees are encouraged to take pride in their appearance and to represent the County to the public as a professional organization. Department Heads should consider whatever measures are necessary to maintain appropriate employee dress and grooming in their departments.

## III. ABSENTEEISM AND TARDINESS

- A. The purpose of this policy is to provide a consistent and equitable mechanism to reduce and/or control loss of work hours or productivity due to absenteeism.
- B. Absenteeism for any reason in a public service setting results in an additional burden for others. All employees of the County share in the responsibility of controlling absenteeism as described herein.
- C. Frequent unscheduled absences, illnesses, or leaves of absence will necessitate implementing disciplinary action.
- D. Un-notified absences of two (2) consecutive days will result in termination.

## IV. INTERNET POLICY (*Ordinance No. 2001-82*)

The use of computers with Internet access is vital to the ability of County government to research issues, obtain information, and communicate with other government entities; however, using County equipment to access and/or transmit inappropriate material through the Internet is detrimental to the efficient operations of County government.

- A. Inappropriate material shall be defined as games and material (including text and graphics), that meet the legal definition of obscene.
- B. The accessing, downloading, scanning or transmitting of inappropriate material on County computers is prohibited, except when necessary for activities by law enforcement officials and only when specifically related to criminal investigations.

Any employee violating this provision shall be subject to discipline, up to and including termination, at the discretion of the department head or elected official (or authorized representative).

- C. Elected Officials may, at their discretion, request the Baxter County IT Department to analyze the computers within their respective department(s) in order to locate and remove any inappropriate material that may exist.
- D. For all new computers purchased with County funds or with grant funds that are administered through the County, the supplier shall be required to remove all inappropriate material prior to either shipment or installation (if supplier will also be installing the system). If the supplier cannot comply with this request, the Baxter County IT Department shall remove all inappropriate material from the system prior to its installation.
- E. The Baxter County IT Department shall provide and maintain a method for the filtering of inappropriate material from the Internet on all new and existing County computers, except for computers in the Sheriff's Department specifically designated by the Sheriff for criminal investigative purposes. The filtering method may be through the Internet Service Provider selected by the County, by the purchase, installation and maintenance of filtering software, or by other means as determined by the Baxter County IT Department.

V. NO SMOKING POLICY (*Ordinance Nos. 1991-48 & 2010-42*)

Baxter County prohibits the use of all tobacco products in all County-owned facilities, and offers to all County employees and officials an opportunity to attend a smoking cessation training program.

VI. GRATUITIES

- A. Employees or their families shall not solicit nor accept gratuities from the public or from any firm currently doing business with or attempting to do business with the County.
- B. Irregular and non-solicited business luncheons are an exception to this policy, provided the employee receiving the benefit of the luncheon has the opportunity to reciprocate.

## **SECTION 08 – SUBSTANCE ABUSE / DRUG AND ALCOHOL TESTING**

### I. DRUG & ALCOHOL TESTING POLICY *(effective January 1, 1996; updated January 1, 2014)*

A. GOAL - The goal of Baxter County Government is to always provide the safest, most dependable work force possible for all of our employees. The Baxter County Government employees are our most valuable resource in meeting this goal. It is our goal to provide a healthy, satisfying work environment for our employees. To assure that these goals are met, our policy is to:

- assure that employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner.
- create a workplace environment free from the adverse effects of drug abuse and alcohol misuse: and
- prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances.

B. PURPOSE - The purpose of this policy is to assure worker fitness for duty and to protect our employees, passengers, and the public from the risks by misuse of alcohol and use of prohibited drugs. This policy is also intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transportation industry. The Federal Motor Carrier Safety Administration of the U.S. Department of Transportation has published 49CFR Part 382, as amended, that mandates urine drug and breath alcohol testing for safety-sensitive positions and prohibits performance of safety-sensitive functions when there is a positive test result.

The U.S. Department of Transportation (DOT) has also published 49CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens. In addition, the Federal government published 49CFR Part 29, “The Drug-Free Workplace Act of 1988”, which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the Department of Transportation.

C. APPLICATION - This policy incorporates these requirements and applies to all safety-sensitive employees of Baxter County, paid part-time employees, paid temporary employees, and drivers who hold a CDL license, when they are performing any county-related safety-sensitive business. This policy applies to off-site lunch periods or breaks when an employee is scheduled to return to work. All safety-sensitive positions are listed in paragraph D (below) of this section.

All safety-sensitive employees will be subject to urine drug testing and breath alcohol testing as a condition of employment. Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty and their employment terminated. Any safety-sensitive employee who is suspected of providing false information in connection with a test, or who attempts to falsify test results through

tampering, contamination, alteration or substitution will be required to undergo an observed collection. Refusal can include an inability to provide a specimen or breath sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test.

D. SAFETY-SENSITIVE EMPLOYEE DEFINITION - An employee is in a safety-sensitive position if he/she performs any of the following functions:

- any duty related to the safe operation of a vehicle or equipment
  - dispatching of vehicles
  - maintenance of any vehicle or equipment
  - holds a Commercial Driver's License (CDL)
  - anyone required to carry a firearm
1. **Mechanic:** Any mechanic employed by Baxter County and performing maintenance on a county-owned vehicle.
  2. **Full-Time Driver:** Any driver working full time for Baxter County and who drives a county vehicle as part of his/her job duties.
  3. **Regular Part-Time Driver:** Any driver working part time on a continuous basis 20-24 hours per week and who drives a county vehicle as part of his/her job duties.
  4. **Driver with CDL License:** Any driver holding a CDL driver's license and who is driving a county vehicle.
  5. **Dispatcher:** A person who is responsible for dispatching vehicles to be driven on a given job.

E. PROHIBITED SUBSTANCES

1. Illegal Drugs

The use of any illegal drug or any substance identified in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C.812), as further defined by 21CFR 1300.11 through 1300.15, is prohibited at all times, unless a legal prescription has been written for the substance. Specific drugs to be tested for include:

- Cannabinoids (Marijuana, Hash)
- Cocaine (Cocaine, Crack, Benzoylcegonine)
- Amphetamines (Amphetamines, Methamphetamines, Speed)
- Opiates (Heroin, Opium, Codeine, Morphine)
- Phencyclidine (PCP)

If reasonable suspicion exists that an employee is using illegal drugs, Baxter County Government reserves the right to test for any drug not approved for



medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs.

The use of prohibited substances by Baxter County employees or any person or persons performing any duty for Baxter County, or while representing in any manner, is strictly prohibited. Violations of the policy create serious safety risks to the public, co-workers, and the employee. Baxter County Government has established a strict discipline policy for prohibited conduct. Any employee who has been determined to have violated this policy will be immediately terminated.

## 2. Alcohol

The use of beverages containing alcohol or substances including any medication, mouthwash, food, candy or any other substance such that alcohol is present in the body while performing transportation business is prohibited. No safety-sensitive employee shall report for duty or remain on duty when his/her ability to perform assigned safety-sensitive functions is adversely affected by alcohol or when his/her breath alcohol concentration is 0.04 or greater.

No employee shall use alcohol while on duty, while performing any functions, or just before performing a function. No employee shall use alcohol within four hours of reporting for duty, or during the hours that they are on call. If the initial test is 0.02 or greater, a second test will be performed to confirm the results of the initial test.

All employees who have a confirmed alcohol concentration of greater than 0.02 but less than 0.04 will be removed from his/her position for eight hours. An alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy and a violation of the requirements set forth in 49CFR Part 382 for safety-sensitive employees.

Violation of these provisions is prohibited and punishable by disciplinary action up to and including termination.

## 3. Legal (Prescription) Drugs

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, when taking legally prescribed medications or over-the-counter medications, the employee shall discuss the potential side effects with their physician or pharmacist to determine if there is the possibility of the medication causing impairment to their mental function, motor skills or judgment. If the employee is advised that the medication may have adverse effects, or if the medication carries a warning label that indicates these functions may be adversely affected, this information must be reported to the Supervisor. In addition, the employee must obtain a written release from the attending physician releasing the person to perform their job duties anytime they obtain a performance-altering prescription.

A legally prescribed drug is a drug for which the individual has a prescription from a physician that includes the name of the substance, amount to be taken, and the period of authorized usage. The misuse of legal drugs while performing county business is prohibited.

#### F. PROHIBITED CONDUCT

Any safety-sensitive employee who is reasonably suspected of being intoxicated, impaired, under the influence of alcohol or a prohibited substance, or not fit for duty shall be removed from job duties pending an investigation and verification of condition. A drug or alcohol test is considered positive if the individual is found to have quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in 49CFR Part 40, as amended.

Baxter County Government has developed a **Zero Tolerance** policy for both alcohol and drug use. Any safety-sensitive employee who is determined to have misused alcohol or used illegal drugs will be terminated.

#### G. TESTING PROCEDURES

All safety-sensitive employees shall be subject to the following testing: Pre-employment, Reasonable Suspicion, Following an Accident, and Random Testing on an unannounced basis. Testing shall be conducted in a manner to assure a high degree of accuracy and using techniques, equipment, and laboratory facilities which have been approved by the Substance Abuse and Mental Health Safety Administration (SAMSHA). All testing will be conducted consistent with the procedures put forth in 49CFR Part 40, as amended.

##### 1. Testing for Illegal Drugs

All safety-sensitive employees will be subject to testing for Marijuana, Cocaine, Opiates, Amphetamines, and Phencyclidine. An initial drug screen will be conducted on each urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/ Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts present are above the minimum thresholds established in 49CFR Part 40, as amended.

##### 2. Testing for Alcohol

Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA) approved testing device operated by a trained technician. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test will be performed using a NHTSA approved evidential breath testing device (EBT) operated by a trained breath alcohol technician (BAT). A safety-sensitive employee who has a confirmed alcohol concentration of greater than 0.02 but less than 0.04 will be removed from his/her position for eight hours. An alcohol concentration of 0.04

or greater will be considered a positive alcohol test and in violation of this policy and a violation of the requirements set forth in 49CFR Part 382 for safety-sensitive employees.

3. Violations of this policy will result in termination, as outlined in this policy.

## H. TYPES OF TESTING

### 1. Pre-Employment Testing

All safety-sensitive position applicants will be required to undergo urine drug testing immediately following the offer of employment or transfer into a safety-sensitive position. Receipt by the county of a negative pre-employment drug test result is required prior to employment.

### 2. Reasonable Suspicion Testing

All safety-sensitive employees may be subject to urine and /or breath testing when there are reasons to believe that drug or alcohol use is adversely affecting job performance. A reasonable suspicion referral for testing will be made on the basis of documented objective facts and circumstances which are consistent with the short-term effects of substance abuse or alcohol misuse. Examples of reasonable suspicion include, but are not limited to:

- a. Physical signs and symptoms consistent with prohibited substance use or alcohol misuse;
- b. Evidence of the manufacture, distribution, dispensing, possession, or use of controlled substances, drugs, alcohol, or other prohibited substances.
- c. Occurrence of a serious or potentially serious accident that may have been caused by prohibited substance abuse or alcohol misuse.
- d. Reasonable suspicion referrals must be made by a supervisor who is trained to detect the signs and symptoms of drug and alcohol use and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. When an employee is required to be tested for Reasonable Suspicion, the employee will be transported to and from the testing site by his/her supervisor or a person designated by the supervisor, or a Drug and Alcohol Testing technician may be called to perform on-site collection or testing.

3. Post-Accident Testing *(Revised, July 2004)*

All safety-sensitive employees will be required to undergo urine and breath testing if they are involved in an accident in a Baxter County vehicle (regardless of whether or not the vehicle is in county service) that:

- Results in a fatality – this includes all surviving safety-sensitive employees that are operating the vehicle and any other whose performance could have contributed to the accident.
- Results in injuries requiring immediate transportation to a medical treatment facility.
- Results in one or more vehicles incurring disabling damage.

Following an accident, all CDL licensed employees involved will be tested (according to DOT standards) as soon as possible, but not to exceed two (2) hours for alcohol testing and thirty-two (32) hours for drug testing. All other safety-sensitive employees will be tested as soon as possible, but not to exceed eight (8) hours for alcohol testing and thirty two (32) hours for drug testing. The employees will be transported to and from the testing site by his/her supervisor or a person designated by the supervisor, or a Drug and Alcohol Testing Technician may be called to perform on-site collection or testing. Any safety-sensitive employee involved in an accident must refrain from alcohol use following the accident until he/she undergoes a post-accident alcohol test. Any safety-sensitive employee who leaves the scene of the accident without justifiable explanation prior to submission to drug and alcohol testing will be considered to have refused the test and will be terminated. Employees tested under this provision will include not only the operation personnel, but any other covered employee whose performance could have contributed to the accident.

4. Random Testing

Employees in safety-sensitive positions will be subjected to random, unannounced testing. All safety-sensitive employees of Baxter County will be subject to testing for drugs at a rate equal to fifty (50) percent of the safety-sensitive employees and ten (10) percent of the safety-sensitive employees for alcohol. Alcohol testing will be done only during, just preceding, or immediately following a safety-sensitive function. These numbers will change if and when the Department of Transportation revises their required minimum numbers to be tested each year. A Random Pool computer program which contains the identification of all safety-sensitive employees of Baxter County will be used to randomly select the employees to be tested. Once notified he/she is scheduled for testing, the employee must proceed to the testing site immediately. These random tests will be unannounced and spread throughout the year. All safety-sensitive employees will remain in the random selection pool at all times, even if they have been previously selected for testing. This means the employee could be tested more than once per year.

5. Return to Duty Testing

Baxter County Government has established a Zero (0) Tolerance policy for Illegal Substance Abuse and Alcohol misuse, therefore there will be no Return to Duty Testing.

6. Employee Requested Testing

Any safety-sensitive employee who questions the results of a required drug test may request that an additional test be performed. This test must be conducted at a different SAMSHA certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the original sample. All costs for such testing are to be paid for by the employee unless the result of the split sample test invalidates the result of the original test. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49CFR Part 40, as amended. The employee's request for a split sample test must be made to the Medical Review Officer (MRO) within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted if the delay was due to documentable facts that were beyond the control of the employee.

I. TIME OFF, PENDING RESULTS OF TEST

A safety-sensitive employee will not be permitted to work pending receipt of test results for reasonable suspicion, post-accident, safety-sensitive transfer or pre-employment testing. He/she will be paid any available sick or annual leave time or be on leave without pay while test results are being determined.

J. EMPLOYEE TRAINING AND EDUCATION

Federal regulation requires one hour of training for safety-sensitive employees on the effects of drug use and indicators of drug use. Supervisors responsible for making reasonable cause testing referrals will be provided a total of two hours of training on the drug and alcohol program. Baxter County Government will comply with all regulations as set forth by the Federal Motor Carrier Safety Administration or the U.S. Department of Transportation.

K. RETENTION OF RECORDS

Baxter County will maintain all records of its anti-drug program as provided in 49CFR, Part 382. The records will remain in a secure location with controlled access. Records of verified positive drug test results, documentation of refusals to take required drug tests, and covered employee referrals will be maintained for five (5) years.

## L. DISCLOSURE

Baxter County Government will keep all findings confidential and no employee test results will be disclosed except as required by law, or expressly authorized or required in 49CFR, Part 382.

1. A covered employee may upon written request, obtain copies of any records pertaining to the covered employee's use of prohibited drugs, including any records pertaining to his/her drug tests. These records will be provided promptly and shall not be contingent upon payment of a fee for these records.
2. Baxter County Government shall disclose data pertaining to its drug testing program and any other information pertaining to the anti-drug program required to be maintained, when requested by the Secretary of Transportation or any DOT agency with regulatory authority over its program, or any State agency who has regulatory authority over the FMCSA agency.
3. When requested by the National Transportation Safety Board as part of an accident investigation, Baxter County shall disclose information related to its administration of the drug test following the accident under investigation.
4. Records shall be made available to a subsequent employer upon receipt of written request from the covered employee. Subsequent disclosure by Baxter County will only be made as expressly authorized by the covered employee's request.
5. Baxter County may disclose information pertaining to a covered employee to the employee or the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual, and arising from the results of a drug test administered under the drug testing regulations (including, but not limited to, a worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought by the covered employee.)
6. Baxter County shall release information regarding a covered employee's record as directed by the specific, written consent of the employee authorizing release of the information to an identified person.

Any questions regarding this policy or any other aspect of the drug free and alcohol-free transit program should contact the following Baxter County Government representative:

Safety Coordinator  
170 Dillard Drive  
Midway, AR 72651

## **SECTION 09 – SAFETY / ON-THE-JOB INJURY**

### **I. ACCIDENTAL INJURIES**

- A. All new employees accept their positions with the understanding that the Arkansas Workers' Compensation laws cover accidental injuries occurring on the job. Consequently, all injuries arising out of and during the course of employment must be reported to the immediate supervisor immediately upon occurrence. Failure to report such injuries will result in a denial of payment for medical care and/or compensation payments prior to the time official notification is received by the County. The only exception to this rule shall be for emergency treatment required after regular business hours; however, in this case, the employee shall report the injury to the Human Resources Office on the next business day following the treatment. Failure to give notice to the employer shall also be excused if the employee is either physically or mentally unable to do so.
  
- B. The employee or immediate supervisor will prepare an incident report and send the employee for appropriate medical treatment or evaluation. An incident report must be completed for any injury, no matter how slight.

## **SECTION 10 – DISCIPLINE AND APPEALS**

### **I. REPORTING PROCEDURE**

- A. This policy provides an informal procedure for reporting any conduct or condition perceived to be race, color, religion, gender, sex, national origin, age, or disability harassment to enable the County to receive timely notice and to act affirmatively, if needed, to assure compliance with the law. If this informal procedure does not achieve the desired result, the affected employee should utilize the Grievance Hearing procedure to bring the matter before the County Grievance Committee.
- B. Race, color, religion, gender, sex, national origin, age, or disability harassment (by conduct or condition) is prohibited.
- C. If you consider a County official or County employee's conduct or a workplace condition to be race, color, religion, gender, sex, national origin, age, or disability harassment, report it immediately to any supervisor or elected official.
- D. The supervisor or elected official receiving any such report shall report the matter to the appropriate elected official or officials, which, for the implementation of this procedure, shall be the elected official(s) responsible for managing the day-to-day affairs of the office of County government in which the alleged harassment occurred or in which the alleged harasser works.
- E. Any supervisor or elected official receiving any report of race, color, religion, gender, sex, national origin, age, or disability harassment shall take appropriate action to remedy any race, color, religion, gender, sex, national origin, age, or disability harassment and shall respond to the person reporting the matter of the action taken.
- F. If the person reporting the alleged harassment is not satisfied with the action taken or if the alleged harassment continues, that person shall report the matter to the County's Prosecuting Attorney or Deputy Prosecuting Attorney.
- G. Except to the extent needed to implement this policy and remedy the alleged harassment, the identification of the person reporting the conduct or condition shall remain confidential.
- H. Reporting conditions or conduct reasonably believed to be prohibited harassment shall not adversely affect the reporting citizen or employee.

### **II. GRIEVANCE HEARING PROCEDURE**

The purpose of the Grievance Hearing Procedure is to establish a required procedure to resolve applicant and employee grievances, and thereby enable the County to voluntarily conform the conduct of County officials and County employees to the requirements of County policy. If the applicant or employee does not follow this required County Grievance Hearing Procedure, the County will raise waiver and estoppel as affirmative



defenses to any claims against the County filed by the applicant via any administrative or judicial procedures otherwise available for redress of grievances.

A. Availability of Property Right Hearings

2. Either the County or the employee may terminate at-will employment at any time without prior notice, without cause, and without any property right hearing.
3. Any claim that any employee is a permanent employee or that the employee has a constitutionally protected property right in employment, must be timely asserted in writing by the affected employee in accordance with this Grievance Hearing Procedure, or the property right claim will be waived by the employee. The employee is entitled to continued employment until “just cause” for discipline or dismissal is proved by the County at a pre-deprivation hearing,

B. Availability of Liberty Right Hearings

1. Any claim of illegal County employment discrimination on basis of race, color, religion, gender, national origin, or disability or because the County is acting in a manner that is arbitrary, capricious, or unreasonable in hiring, compensation, conditions of employment, discipline, or dismissal, must be timely made in writing by the affected applicant or employee in accordance with this Grievance Hearing Procedure.
2. Any claim that any employee treatment, discipline, or dismissal is unconstitutional punishment due to the employee’s exercise of a constitutionally protected “liberty right” or other constitutionally protected activity of the employee must be made in a timely manner, in writing by the affected applicant or employee in accordance with this Grievance Hearing Procedure.
3. Any claim that any employee treatment, discipline, or dismissal is contrary to the public policy of Arkansas must be made in a timely manner in writing by the affected employee in accordance with this Grievance Hearing Procedure.

C. Availability of Name Clearing Hearings

Any claim that any employee’s liberty interest in future employment has been damaged because of any “stigmatizing charge” publicly communicated by the County must be timely asserted by the affected employee in accordance with this Grievance Hearing Procedure.

D. Availability of Hearings Generally

1. A grievance hearing requested by an applicant or employee is not required to be held, unless it is timely requested in the manner required by this Grievance Hearing Procedure and required by the constitution or by this policy.
2. Neither liberty rights nor property rights are created by this document.

3. The County may, in its discretion, hold a hearing prior to any decision or deprivation.

E. Timely Requests for Grievance Hearing

1. It is the applicant or employee's duty to request a Grievance Hearing.
2. The applicant or employee must file a written Grievance Hearing request in a timely manner after any claimed deprivation of the applicant's liberty or employee's liberty or property, or any right to a hearing, or to object to the deprivation shall be waived.
3. The Grievance Hearing request should state, in writing:
  - a. the grievance for which a hearing is requested; and
  - b. the factual basis of the grievance; and
  - c. the relief sought.
4. The written Grievance Hearing request shall be delivered to the County Grievance Committee in care of the County Judge no later than 4:30 p.m. on the third full business day (weekends and holidays excluded) after any claimed deprivation for which a Grievance Hearing is requested.
5. Any dismissal decision shall automatically be suspension with pay for three (3) full business days (weekends and holidays excluded) during which time the employee, subject to dismissal, may request a pre-deprivation hearing, in which case the suspension with pay shall continue until the conclusion of the County Grievance Committee hearing. (In no event shall a suspension with pay status extend more than fourteen (14) days, unless the suspension with pay status is extended by decision of the County Grievance Committee. All accrued but unpaid leave time, e.g., vacation, compensatory time, etc. will automatically run concurrent with the period of suspension with pay, unless the employee prevails in his or her grievance. Any discipline decision that will result in reduction or removal of pay or position shall automatically be deferred for three (3) full business days (weekends and holidays excluded) during which time the employee, subject to discipline, may request a pre-deprivation hearing in which case the deferral shall continue until the conclusion of the County Grievance Committee hearing.
6. The Grievance Committee shall respond in writing to all timely Grievance Hearing Requests stating:
  - a. the time and place of the hearing, if the hearing request is granted, or
  - b. the reason for denial, if the hearing request is denied.

## F. Grievance Hearing Procedures

### 1. Notice

If an employee is granted a grievance hearing, the employee shall be notified of the date, time, and place of the hearing.

### 2. Suspension with Pay

If it is determined that the employee with the grievance should continue to work until the hearing is concluded, the employee may be requested to perform duties for the benefit of the County with pay, pending the outcome of the hearing.

### 3. Hearing Record

The hearing shall be reported by a court reporter (not merely a tape recorder) for transcription upon request by either party at the expense of the requesting party.

### 4. Procedural Issues

At the hearing, on the record, the parties shall suggest any desired hearing procedures and state any complaints regarding: a) the notice; b) the date, time, or place of the hearing; c) the opportunity to refute fairly the charges; and d) the impartiality of the decision maker(s).

### 5. Rules of Procedure and Evidence

Informal rules of procedure and evidence (Ark. Code Ann. 25-15-208) shall be followed:

- a. Witnesses shall testify under oath.
- b. Parties shall be allowed, at their own expense, to obtain and use legal counsel for representation.
- c. Parties shall be allowed to obtain and use the presence of witnesses for examination, cross-examination, and rebuttal.
- d. Parties should be granted a reasonable continuance, if requested prior to the hearing, in writing and if reasonably necessary for stated reasons to prepare adequately for the hearing.

### 6. Publication

The County Grievance Committee shall hear the evidence offered by the parties; hear any argument desired by the parties; and vote without public discussion or deliberation. Only the decision, and not the factual or legal reasons therefore, shall be announced publicly. The hearing shall be held in public, if so required by the F.O.I.A.; however, the employee may, at any time, decline the hearing

and accept the intended discipline or dismissal.

7. Confirm in Writing

After the hearing, the applicant or employee with the grievance shall be sent a letter stating the factual and legal bases found by the County Grievance Committee for any refusal or removal of pay or position.

G. Hearing Issues and Burdens of Proof

1. Property Interest Hearings

- a. Since this County employment policy affirmatively creates at-will employment as the default employment policy of the County, the employee has the burden of proving by a preponderance of the evidence that he or she has a property interest in his or employment.
- b. Where the employee meets his or her burden of proof, the supervisory official has the burden of proving “just cause” for the supervisory official’s intended discipline or dismissal of the employee.

2. Liberty Interest Hearings

a. Claim of Arbitrary Discrimination (Unequal Treatment)

- (1) The grieving employee has the burden of proving by a preponderance of the evidence that he or she is being treated differently than another person otherwise similarly situated with the employee.
- (2) Where the employee meets his or her burden of proof, the supervisory official has the burden of proving by a preponderance of the evidence that the reason for the difference in treatment is rationally related to the effectuation of a legitimate County objective.

b. Claim of Unconstitutional Punishment

- (1) The employee has the burden of proving by a preponderance of the evidence that he or she has engaged in constitutionally protected conduct that was a substantial or motivating factor in any adverse employment decision, discipline, or dismissal.
- (2) Where the employee meets his or her burden of proof, the supervisory official has the burden of proving that the adverse employment decision, discipline, or dismissal would have occurred even in the absence of the constitutionally protected conduct.

c. Claim of Discrimination Due to Race, Color, Religion, Gender, Sex, or National Origin

- (1) The grieving applicant or employee has the burden of proving by a preponderance of the evidence that he or she is being treated or affected differently than another person who, other than for race, color, religion, gender, sex, or national origin, is similarly situated with the applicant or the employee.
- (2) Where the applicant or employee meets his or her burden of proof, the supervisory official has the burden of proving by a preponderance of the evidence that the proven inequality of treatment or effect is necessary to effectuate a compelling County objective.

d. Claim of Discrimination Due to a Disability

- (1) The grieving applicant or employee has the burden of proving by a preponderance of the evidence that he or she is a qualified individual with a disability who, because of the disability, is being treated or affected differently than another person concerning job application, procedures, advancement, dismissal, compensation, training, or other terms, conditions, or privileges of employment.
- (2) Where the applicant or employee meets his or her burden of proof, the supervisory official has the burden of proving by a preponderance of the evidence that the proven difference in treatment or effect is job-related and necessary to effectuate a legitimate County objective, that performance of the job cannot be accomplished by reasonable accommodation or that the needed accommodation would result in undue hardship on the County.

e. Definitions applicable to this section:

“Disabled” or “disability” - a physical or mental impairment that substantially limits one or more of the major life activities of an individual having a record of such impairment or being regarded as having such impairment.

“Regarded as having such impairment” - includes those with conditions such as obesity or cosmetic disfigurement, and individuals perceived to be at high risk of incurring a work-related injury.

“Discrimination” - includes:

- Limiting, segregating, or classifying a job applicant or employee in a manner that adversely affects his or her opportunities or status.
- Participating in contractual or other arrangements that have the effect of subjecting individuals with disabilities to discrimination.

- Using standards, criteria, or methods in such a manner that results in or perpetuates discrimination.
- Imposing or applying tests and other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities, unless the test or selection criteria are job related and consistent with County necessity.
- Failing to make reasonable accommodations to the known limitations of a qualified individual with a disability unless the covered entity can demonstrate that an accommodation would impose an undue hardship on the operation of the County.
- Denying employment opportunities because a qualified individual with a disability needs reasonable accommodations.

“Reasonable accommodation” includes, but is not limited to:

- Making existing facilities used by employees readily accessible to the disabled
- Job restructuring
- Flexible or modified work schedules
- Reassignments to other positions
- The acquisition or modifications of equipment or devices

“Undue hardship” - an action requiring “significant difficulty or expense” considering:

- The overall size of the County with respect to the number of employees, number and type of facilities, and size of budget.
- The type of operation maintained by the County including the composition and structure of the work force of that entity.
- The nature and cost of accommodation needed.

“Qualified individual with a disability” - an individual with a disability who, with or without reasonable accommodation, can perform the “essential functions” of the employment position held or desired.

“Essential functions” - job tasks that are fundamental but not marginal (not every job task is to be included in determining the essential functions).

f. Claim of a Completely Arbitrary Decision

- (1) The grieving employee has the burden of proving by a preponderance of the evidence that the action taken against him or her is not rationally related to the effectuation of any conceivable legitimate governmental objective of the County.
- (2) Where the employee meets his or her burden of proof, the supervisory official has the burden of proving by a preponderance of the evidence that the action taken against the grieving employee is rationally related to the effectuation of a conceivable legitimate governmental objective of the County.

g. Name Clearing Hearings

- (1) The applicant or employee making the grievance has the burden of alleging that the County or a County official or County employee has publicly communicated a “stigmatizing charge” and requesting an opportunity publicly to clear his or her name.
- (2) Where the applicant employee meets his or her burden of proof, the County shall provide the applicant or employee a public hearing opportunity to clear his or her name.

H. COUNTY GRIEVANCE COMMITTEE

1. The County Grievance Committee for employees hired by the County Judge shall be the Quorum Court, but the decision of the Grievance Committee shall only be advisory to the County Judge. (ACA 55, Section 3)
2. The County Grievance Committee for employees not hired by the County Judge shall be the Quorum Court (or its appointee) and the decision of the Grievance Committee shall be the decision of the County. (ACA 55, Section 1)
3. The purpose of the Grievance Hearing is to enable the County, through its Grievance Committee, to hear from both the employee and the employee’s supervisory official and thereafter to determine whether an executive decision of the County official or employee violates the Constitution or the Law. If the decision being challenged in the Grievance Hearing process is determined by the Grievance Committee to violate the Constitution or the Law, then the Grievance Committee shall declare the decision to be unconstitutional or illegal and shall direct the supervising elected County official to modify that executive decision to conform that decision to the requirements of the Constitution or the Law.
4. The County Grievance Committee is not to substitute its operational judgment for that of an elected official, if the decision of the County official or employee does not violate the Constitution or the Law.
5. If the employee’s supervisory official refuses to abide by the County Grievance

Committee's decision, then the County Grievance Committee must either access the courts to seek an order enjoining the supervisory official from acting contrary to the Constitution or the Law or the County Grievance Committee shall be deemed to have acquiesced to the decision of the supervisory official and the decision of the supervisory official shall become the County's final decision with respect to the employment action taken.

I. RELEASE OF EMPLOYEE GRIEVANCE RECORDS

1. Public access to employee grievance records is authorized only if approved by the affected employee or authorized by the Arkansas Freedom of Information Act.



## SECTION 11 – MISCELLANEOUS POLICIES

### I. INCLEMENT WEATHER POLICY *(Ordinance No. 2015-42)*

A. Purpose: The general policy regarding inclement weather is that Baxter County government offices do not normally close because of hazardous driving conditions. However, the obligation to provide services to the citizens of Baxter County must be balanced with the risk of danger to the public and to County employees. It is, therefore, appropriate that guidelines which reflect the need for safety of our citizens and employees be established.

B. Provisions:

In the event of early morning severe inclement weather conditions, the Judge's Office will determine whether this inclement weather policy will be placed into effect and will announce its implementation before 6:30 am, if at all possible.

1. In the event that the Judge's Office announces that Baxter County government offices shall be closed due to inclement weather, all employees, with the exception of essential personnel (i.e., Sheriff's Department, 911 emergency dispatchers and Road & Bridge employees), will have the following options:
  - Use an earned day of vacation
  - Use any other paid time off due the employee that was earned prior to his/her absence due to inclement weather
  - Take the time off without pay
  - Employees may choose to come in to work, if they believe they can do so safely, and with the approval of the Elected Official or Department Head
2. Sick leave cannot be used to cover an absence caused by inclement weather, except in extenuating circumstances. The Elected Official or Department Head may require documentation in order for sick leave to be taken.
3. When severe inclement weather occurs during office hours, elected officials and department heads will have the discretion to allow employees to leave work early for safety reasons. Decisions to allow employees to leave work early, however, should recognize the requirement to maintain designated critical personnel and assure service delivery to the citizens for the full work day. Employees who reported late on the job, or were allowed to leave early, will have the same options listed above (B. 1.) for the number of hours not worked (in quarter-hour increments).
4. Elected Officials and Department Heads shall designate essential personnel, who will be required to reach their work stations by the time of regular office opening, regardless of weather-related conditions to assure that offices are open

to the public and services are provided. Prior designation will allow critical personnel to prepare for weather conditions, and if need be, provide alternative means of getting to work.

## II. COUNTY-ISSUED CREDIT CARDS

- A. County credit cards shall be issued by the Elected Official only.
- B. County-issued credit cards shall be used for County business only.
- C. Elected Officials shall provide the County Judge and Treasurer a list of all their employees with County-issued credit cards and their respective numbers.
- D. Any misuse such as personal use, late fees, or finance charges may result in the cancellation of the card.

## III. TRAVEL POLICY (*Ordinance No. 2014-10*)

Section 111 of the 1977 Acts of Arkansas allows that Elected Officials and County Employees shall be reimbursed for reasonable travel expenses in the conduct of county affairs where such incurrence of expense is not discretionary in the conduct of duties assigned by law; and allows for the reimbursement of expense for meals, lodging and travel.

- A. County Elected Officials and employees shall be entitled to receive a daily allowance for lodging for any individual while traveling within the State of Arkansas at a rate of not to exceed \$125.00 per day (pre-tax), and at a rate not to exceed \$130.00 per day (pre-tax) while traveling beyond the borders of the State of Arkansas. In extraordinary circumstances, the County Judge may approve an amount in excess of these limits.
- B. Reimbursement for the purchase of meals shall be based on reasonable actual expense, not to exceed \$50.00 per day. Elected Officials have the option to set individual reimbursement per meal rate, based on circumstance of travel. Meals provided as part of a registration fee shall not be a reimbursable expense.
- C. When a personally owned vehicle is used for County business travel, expenses shall be reimbursed at the current rate of reimbursement (*obtainable by contacting the Clerk's Office*). Such travel expense claims shall show location of travel, purpose of the trip, and total number of road miles traveled between beginning and ending locations using the shortest route between the two locations.
- D. When County business requires travel by airline, bus or rail, actual expenses will be allowed. In the case of air travel, only economy class accommodations will be allowed.

- E. The *Baxter County Travel Reimbursement* form shall be completed and accompanied by receipts and/or registration copy, and attached to the affidavit when reimbursement for travel expense is being requested.
- F. Each employee shall request reimbursement for his/her own travel. An Elected Official or County Employee may include the expenses of another county employee on his/her *Baxter County Travel Reimbursement* form, only if the submitting employee shows documentation that he/she has paid a reimbursable expense for the specifically named employee.
- G. If an Elected Official is host to a guest from another governmental agency, an industrial prospect, or other county-related visitor, expense reimbursement for meals, lodging or other related expense may be allowed, provided the guest will not be reimbursed by any other source, and provided the circumstances are thoroughly documented.
- H. Meals or lodging shall not be reimbursed to an Elected Official or County Employee for expense within Baxter County, unless documentation is provided, as stated in Section E above.

## **SECTION 12 – EMERGENCY SERVICES EMPLOYEES** (Ordinance No. 2015-42)

- I. This section outlines exceptions to the general policies included in this manual for the County’s Emergency Services Employees.

*Emergency Services Employees* shall be defined as:

- Law Enforcement employees
- 911 Department
- Office of Emergency Management
- Safety/Risk Management

Note: During times of an emergency, whether natural or man-made, employees not typically classified as *Emergency Services Employees* may be called upon to act in some capacity as emergency responders (i.e., Road & Bridge employees during winter snow/ice storms). The County’s *Disaster Plan* will be followed during times when a disaster is officially declared by the County Judge.

### II. VACATION - EMERGENCY SERVICES EMPLOYEES

- A. Vacation time shall be earned and awarded in the same manner as all other county employees, with the exception that:
- Vacation leave shall be charged against employees in not less than one-half the regularly scheduled work day units.

### III. COMPENSATORY TIME – EMERGENCY SERVICES EMPLOYEES

- A. Emergency Services Employees may accrue a maximum of eighty (80) hours of compensatory time in lieu of overtime pay. Overtime hours worked during the normal work period may be accrued as compensatory time, up to forty (40) hours, after which overtime hours will be either paid at one and one-half their hourly rate or accrued as additional compensatory time, at the discretion of the Elected Official or Department Head.
- B. Overtime pay is allowed upon approval of the Elected Official or Department Head, and only when the budget of that particular department or office is sufficient to cover the expense of the overtime.
- C. Employees will be permitted to use accrued compensatory time within a reasonable time after request is made, provided the employee’s absence will not create a genuine operational problem for the County.
- D. Elected Officials and Department Heads will make every effort to keep overtime and compensatory time accruals within manageable levels.

IV. SICK LEAVE - EMERGENCY SERVICES EMPLOYEES

- A. Emergency Services Employees shall earn sick leave in the same manner and amount as all other employees. Sick leave shall be taken in hourly increments, based upon the regularly scheduled work shift of the employee.

V. HOLIDAY PAY – EMERGENCY SERVICES EMPLOYEES

- A. Holiday pay for Emergency Services Employees will be given in hours based upon the regularly scheduled work shift of the employee.

VI. INCLEMENT WEATHER POLICY – EMERGENCY SERVICES EMPLOYEES

- A. Emergency Services Employees, by nature of their positions, are not eligible to exercise the options listed in the Inclement Weather Policy. Any absences that occur during periods of inclement weather will be charged against any available vacation time or accrued compensatory time or will otherwise be unpaid.

# **FORMS**

Employee Acknowledgement

## **EMPLOYEE ACKNOWLEDGMENT**

### **IN RECEIPT OF BAXTER COUNTY POLICY MANUAL (updated April 2017)**

I acknowledge that I have received a copy of the Baxter County Personnel Policy and as an employee of Baxter County, Arkansas, I agree to abide by the policies as set forth therein.

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EMPLOYEE'S PRINTED NAME

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EMPLOYEE'S SIGNATURE

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DATE SIGNED