

**CITY OF OAKWOOD
ADMINISTRATIVE POLICIES AND PROCEDURES**

POLICY NO. 3

SUBJECT: USE OF NON-PUBLIC SAFETY CITY VEHICLES BY CITY EMPLOYEES

DATE: MARCH 7, 2003

REVISED: JANUARY 31, 2018

RECOMMENDED BY:



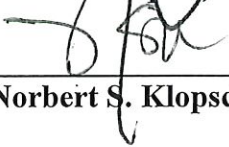
Cindy S Stafford, Finance Director

CONCURRED BY:



Robert Jacques, Law Director

APPROVED BY:



Norbert S. Klopsch, City Manager

POLICY: This document sets forth the City's policy (this "Policy") regarding the use of City vehicles by City employees. For purposes of this Policy, the term City vehicle shall mean all vehicles owned or leased by the City other than clearly marked and unmarked public safety department vehicles. The use of clearly marked and unmarked public safety vehicles by City employees is addressed in Policy No. 4.

PURPOSE: For a variety of reasons, certain employees must use City-owned vehicles in connection with their employment. This Policy establishes guidelines for that use, recognizing that the City and its employees are subject to IRS rules that determine when such use is taxable or non-taxable to the employee. In keeping with applicable IRS rules, this Policy divides City-owned vehicle use into three (3) categories:

- Use for City business purposes only;
- Use for City business purposes and commuting only; and
- Use for City business purposes, commuting, and other personal use.

TAX CONSIDERATIONS: When a City-owned vehicle is used *for City business purposes*, that use is not taxable to the employee. However, as a general rule subject to certain exceptions set forth in the Internal Revenue Code (the "Code"), *personal use* of a City-owned vehicle is taxable to the employee.

The Code specifically states that all commuting miles are considered *personal use* if the employee is using an employer-owned vehicle (including weekend use). (Reg. §1.162-2(e))

Record-keeping

In most cases, *personal use* of an employer-owned vehicle would require employees to keep a detailed log/record of personal use, such as a written mileage log. The Code (Reg. §1.274-6T(a)(3)) allows a safe harbor from the record keeping requirement, as long as the vehicle is not used for any personal use other than commuting, if all of the following are met:

1. The vehicle is owned by the City and is provided for use for City purposes;
2. For bona fide non-compensatory reasons, the City requires the employee to commute to and/or from work in the vehicle;
3. A written policy exists prohibiting use other than commuting;
4. The City reasonably believes that, except for commuting, no individual uses the vehicle for personal purposes;
5. The City accounts for the commuting use by including the commuting value in the employee's wages.

Valuation and Accounting for Tax Purposes

Generally, the value of an employee's *personal use* of a City-owned vehicle must be determined and included in that employee's taxable wages. This is handled in three ways under the Code (Reg. §1.61.) The method of determining how personal use is handled depends upon the employee, the vehicle and the type of personal use (commuting and all other personal use.)

1. Automobile Lease Valuation Rule. The employee uses the City-owned vehicle to commute to and from work and also may use the vehicle for personal use outside of work. A written log is required to be kept; there is no safe harbor from the record-keeping requirements. The computation requires the determination of fair market value ("FMV") on the first day the vehicle is made available to the employee. Using the IRS table, compute the annual lease value. Multiply the annual lease value by the percentage of personal use. Add 5.5cents per mile driven by the employee to the table lease value for employer provided fuel.
2. Vehicle Cents-Per-Mile Rule. This method requires a written log, and income is calculated using the current IRS mileage reimbursement rate. This method cannot be used for vehicles with a FMV exceeding \$16,000 for cars and \$17,300 for trucks.
3. Commuting Valuation Rule. Personal use for commuting can be valued at \$1.50 each way if all of the following are met:
 - a. The vehicles is owned by the City;
 - b. The vehicle is provided to the employee for use in City business;
 - c. The City requires the employee to commute in the vehicle for a bona fide non-compensatory business reason.

There is one other exception under the Code. It is the Qualified Non-personal Use Vehicle (Reg. §1.274-5T). Use of the specialized vehicles defined below will generally be deemed non-personal in nature.

List of vehicles. Vehicles which are “qualified non-personal use vehicles” include the following:

- (A) Clearly marked police, fire, and public safety officer vehicles;
- (B) Ambulances used as such or hearses used as such;
- (C) Any vehicle designed to carry cargo with a loaded gross vehicle weight over 14,000 pounds;
- (D) Bucket trucks (cherry pickers);
- (E) Cement mixers;
- (F) Combines;
- (G) Cranes and derricks;
- (H) Delivery trucks with seating only for the driver, or only for the driver plus a folding jump seat;
- (I) Dump trucks (including garbage trucks);
- (J) Flatbed trucks;
- (K) Forklifts;
- (L) Passenger buses used as such with a capacity of at least 20 passengers;
- (M) Qualified moving vans;
- (N) Qualified specialized utility repair trucks (*See Note below*);
- (O) Refrigerated trucks;
- (P) School buses;
- (Q) Tractors and other special purpose farm vehicles;
- (R) Unmarked vehicles used by law enforcement officers if the use is officially authorized;
- (S) Such other vehicles as the Commissioner may designate.

Note: The Code defines Qualified Specialized Utility Repair Trucks, which is a legal term that has specific meaning. The term *qualified specialized utility repair truck* means any truck (not including a van or pickup truck) specifically designed and used to carry heavy tools, testing equipment, or parts, if:

- (i) The shelves, racks, or other permanent interior construction which has been installed to carry and store such heavy items is such that it is unlikely that the truck will be used more than a *de minimis* amount for personal purposes; and

(ii) The employer requires the employee to drive the truck home in order to be able to respond in emergency situations for purposes of restoring or maintaining electricity, gas, telephone, water, sewer, or steam utility services.

The Code specifically excludes pickup trucks from the definition of *qualified specialized utility repair truck* unless the pickup truck is equipped with at least one of the following:

1. A hydraulic lift gate;
2. Permanent tanks or drums; or
3. Permanent side boards or panels that materially raise the level of the sides of the truck bed.

Safe Harbor policy: It is the City's desire to avail itself of the above-referenced safe harbor provision with respect to City employees who either (i) use a City vehicle for exclusively business purposes or (ii) use a City vehicle for business purposes and commuting only. Use of the safe-harbor provisions will substantially reduce the record-keeping burden on both the City and the City employee.

PROCEDURE:

I. GENERAL RULES

(Applicable to ALL use of City-owned vehicles, regardless of whether such use is business use or personal use.)

A. Proper Licensing of City Employees.

City employees who operate City vehicles are required to possess a valid Ohio Motor Vehicle Operator's License or, where applicable, a valid Commercial Driver's License. Each respective Department Director is responsible for verifying that each employee operating a City vehicle is properly trained and licensed.

B. Operation and Use of City Vehicles.

1. Driver Safety and Care of City Vehicles.

a. City employees are required to operate City vehicles in a safe, courteous, and responsible manner at all times. Any indication of improper use may result in any or all of the following: (i) revocation of the employee's privilege of using a City vehicle; (ii) disciplinary action; (iii) termination of employment. The term "improper use" as used herein includes, but is not limited to:

1. Exceeding speed limits;
2. Reckless operation of a City vehicle;
3. Driving a City vehicle while under the influence of alcohol and/or other controlled substances;
4. Discourteous use of a City vehicle;
5. Violation of any City or State vehicle or traffic law, regulation, or rule;
6. Violation of any City or departmental safety rule.

- b. City employees are required to operate City vehicles without abuse to ensure the full life expectancy of the vehicle.
- c. City employees are required to wear seat belts at all times while operating a City vehicle, and to ensure that any passenger(s) do/does as well.
- d. City employees are required to operate City vehicles in a manner that minimizes fuel consumption.
- e. City employees are required to ensure that City vehicles are properly maintained.

2. Authorized Use of City Vehicles.

- a. Except as otherwise provided herein, City vehicles shall be used only for City business purposes and shall not be used by a City employee for such employee's personal purposes.
- b. Except as otherwise provided herein, all City vehicles will normally be kept overnight on City property. City vehicles which are authorized to be driven to a City employee's residence should be parked in a garage, a private drive, or otherwise in a safe and secure place.
- c. Only City employees shall operate City vehicles, except upon the prior written approval of the City Manager.
- d. No persons other than City employees are permitted to be passengers in City vehicles, except with the prior approval of the respective Department Director under the following circumstances:
 - 1. When such persons are official guests of the City and the vehicle is being used for City business purposes;
 - 2. When required for the conduct of City business; or
 - 3. In any other case when the prior written approval of the City Manager is obtained.

C. Assignment of City Vehicles

- 1. Only the City Manager may authorize a City employee to regularly use a City vehicle to commute or for personal purposes other than commuting. Such authorization shall be in writing and must be provided prior to such use. Such authorization shall be made only upon written request by a Department Director. Such request must satisfy the requirements set forth in Sections III or IV of this Policy, respectively. As used herein, the term "regularly" shall mean more than ten (10) days in any calendar year.
- 2. Department Directors may authorize a City employee to temporarily use a City vehicle to commute when City business requirements necessitate such use. Such authorization must be in writing and must be provided prior to such use. The requirements set forth in Section III of this Policy must be satisfied with respect to such use. As used herein, the term "temporarily" shall mean ten (10) or fewer days in any calendar year.

3. A list of City employees who are authorized to commute in a City vehicle shall be maintained by the City Manager. Each Department Director shall provide the City Manager with current information identifying the specific vehicle assigned to each of their respective employees.

4. Notwithstanding the foregoing, a City employee may not be authorized to temporarily use a City vehicle to commute if such employee's residence is greater than twenty five (25) miles from such employee's regularly assigned work location, except upon prior written approval of the City Manager.

II. VEHICLES NOT USED BY AN EMPLOYEE FOR ANY PERSONAL PURPOSES (Applicable to use of City-owned vehicles for *business purposes* only)

A. Scope

This Section applies to vehicles which are not used by a City employee for any personal purposes (a "non-personal use City vehicle"). This rule generally applies to City vehicles which are normally used by a City employee only in the performance of the employee's normal duties and which are not taken home by such employee at night (*i.e.*, not used for commuting). For example, a street maintenance vehicle or leisure services vehicle might be used by an employee only during work hours to travel about for City business purposes.

B. Specific Rules and Requirements.

In addition to the general rules set forth in Section I above, the following specific rules apply to the use of a non-personal use City vehicle by City employees.

1. The non-personal use City vehicle must be provided to the employee for use in connection with City business;
2. When the non-personal use City vehicle is not being used in connection with City business, the vehicle must be kept on City premises, unless it is temporarily located elsewhere (e.g., for maintenance or because of a mechanical failure);
3. The employee, and any individual whose use would be taxable to such employee (*e.g.*, any member of the employee's family), is prohibited from using the non-personal use City vehicle for any personal purposes, except for *de minimis* personal use (such as a stop for lunch between two business locations) when such *de minimis* personal use is approved in writing by the respective Department Director.

III. VEHICLES NOT USED BY AN EMPLOYEE FOR ANY PERSONAL PURPOSES OTHER THAN COMMUTING
(Applicable to use of City-owned vehicles for *business purposes* and *commuting only*.)

A. Scope

This Section applies to vehicles not used by a City employee for personal purposes other than commuting (a "commuting use City vehicle"). This rule generally applies to City employees who have been authorized, pursuant to the rules set forth in this Policy, to use a City vehicle to commute. For example, a City vehicle might be used by a City employee during work hours to travel about for City business purposes and also used by the City employee to commute to and from the employee's residence and their normal work location, but is not to be used for any other personal purposes.

B. Specific Rules and Requirements

In addition to the general rules set forth in Section I above, the following specific rules apply to the use of a commuting use City vehicle by a City employee:

1. The commuting use City vehicle must be provided to the employee for use in connection with City business and such vehicle must actually and regularly be used by such employee in connection with City business;
2. The employee's Department Director must articulate in writing the bona fide non-compensatory business reason(s) for requiring the employee to commute to and/or from work in the commuting use City vehicle;
3. The employee, and any individual whose use would be taxable to the employee (*e.g.*, members of the employee's family), is prohibited from using the commuting use City vehicle for *personal purposes* other than for commuting to and from the employee's residence and his normal work location or for *de minimis* personal use (such as a stop for a personal errand on the way between a business location and the employee's residence); and
4. The employee's Department Director is required to ensure that the City accounts for the commuting use by including in the employee's gross income the commuting value as established by Treasury Regulations.

IV. VEHICLES USED BY AN EMPLOYEE FOR PERSONAL PURPOSES OTHER THAN COMMUTING
(Applicable to use of City-owned vehicles for *business purposes and personal use.*)

A. Scope

This written policy statement applies to vehicles used by a City employee for personal purposes other than commuting (a "personal use City vehicle"). This rule generally applies to City employees who have been authorized, pursuant to the rules set forth in this Policy, to use a City vehicle for personal purposes. For example, a City vehicle might be used by a City employee during work hours to travel about for City business purposes and also used by the City employee to commute to and from the employee's residence and their normal work location and, in addition, might be used for purely personal reasons.

B. Specific Rules and Requirements

In addition to the general rules set forth in Section I above, the following specific rules apply to the use of a personal use City vehicle by a City employee:

1. Under no circumstance may a personal use City vehicle be used by an employee or any individual whose use would be taxable to such employee (*e.g.*, members of the employee's family) outside the geographic boundaries of the State of Ohio, unless specifically approved in writing by the City Manager.
2. An employee authorized to use a personal use City vehicle shall keep a written log, satisfactory to the Director of Finance, of all business, commuting and personal use of such personal use City vehicle.
3. A City employee authorized to use a personal use City vehicle will have added to their gross income annually the value of the personal and commuting use of the City vehicle.

PERSONAL USE OF CITY VEHICLES

November 20, 2020

The following Oakwood employees are authorized to use city vehicles for commuting and personal use as stipulated below, subject to Administrative Policy Nos. 3 and 4, as appropriate. The commuting use of a city vehicle is authorized for the purpose of allowing the listed employees to respond quickly and efficiently to any and all emergency events.

Public Safety Department Employees

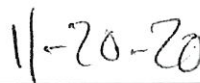
- Chief Alan Hill – commuting and personal use
- Captain Mike Jones – commuting and personal use
- Captain Kevin Pruszyński – commuting and personal use
- Detective Jeff Yount, Jr. – commuting use only
- Detective Kasey Ballinger – commuting use only

Other Employees

- City Manager Norbert Klopsch – commuting and personal use
- Leisure Services Director Carol Collins – commuting use only
- Engineering and Public Works Director Doug Spitler – commuting and personal use
- Public Works Foreman Tom Long – commuting use only, when on call
- Public Works Foreman Dave Shuey – commuting use only, when on call
- Public Works Foreman Chris Harold – commuting use only, when on call
- Public Works Foreman/Water Plant Superintendent Derek Shell – commuting use only, when on call and/or when assigned weekend duty
- Water Plant Superintendent Gary Dursch – commuting use only
- Water Plant Technician Chris Branscomb – commuting use only, when assigned weekend duty



Norbert S. Klopsch
City Manager



Date