

Town of Amherst Town Owned Vehicle Use Policy

Section 1. Purpose

The purpose of this policy is to establish standard requirements and procedures in accordance with applicable provisions of the Internal Revenue Code, for Town of Amherst employees who use, or who are assigned town-owned or leased vehicles in the course of providing Town services and conducting Town business. This policy is intended to ensure the safety and well-being of Town employees; to facilitate the efficient and effective use of Town resources; to minimize the Town's exposure to liability; to monitor the use of Town-owned vehicles; and to comply with the Internal Revenue Service regulations relating to Town vehicle usage.

This policy shall be known as the "Town of Amherst Owned Vehicle Use Policy" and may be cited as such.

Section 2. Definitions

For the purposes of this Policy, the following terms, phrases, words and their derivations shall have the meanings ascribed to them in this section:

2.1 ASSIGNED TAKE HOME VEHICLE – A Town owned or leased vehicle which is used by a Town employee for Town business and for regularly commuting to and from the employee's home.

2.2 ASSIGNED VEHICLE – A Town owned or leased vehicle assigned to a department or town employee, but not for employee commuting to and from the employee's home.

2.3 CALL OUT – A directive to an employee to report to a work site during off duty time or day, and to respond to emergencies, which require immediate response to protect life and safety.

2.4 DE MINIMIS¹ PERSONAL USE– Use of a Town vehicle for personal use that is rare and minimal, such as stopping for a personal errand on the way between a business use and the employee's home.

¹ The full expression is **de minimis non curat lex**. This is a Latin phrase which means "the law does not care about very small matters". It can be used to describe a component part of a wider transaction, where it is in itself insignificant or immaterial to the transaction as a whole, and will have no legal relevance or bearing on the end result.

2.5 ECONOMIC BENEFIT TO THE TOWN – The amount saved when the cost of reimbursement to an employee for business use of his or her private vehicle to respond to emergency call-outs is greater than the commuting costs associated with an assigned, Town-owned, take-home vehicle for the same assignment period.

2.6 EMERGENCY RESPONSE – An immediate response, to protect life and property, and to maintain and enforce law and order during an emergency.

2.7 OCCASIONAL OVERNIGHT USAGE – When an employee takes home a Town-owned vehicle for conducting Town business away from the employee's normal place of work and outside the employee's normally scheduled work hours. Occasional overnight usage for a town-owned vehicle shall mean no more than 4 times per quarter on average.

2.8 SPECIAL EQUIPMENT VEHICLES – Vehicles manufactured for special applications or a vehicle equipped with tools or devices for specific job applications.

2.9 TEMPORARY ON-CALL STATUS – When an employee is directed by his or her supervisor to be available to respond to emergency situations for a specific and limited period of time.

2.10 WORK STATION – The office or site a Town employee reports to perform normally scheduled work.

Section 3. Policy

3.1 The Town of Amherst wants to create a uniform policy governing Town-owned vehicles being used by employees to commute to and from work.

3.2 Assignment of a Town vehicle is neither a privilege nor a right of any Town employee.

3.3 Assignment of a Town vehicle shall not be made based on employee merit.

3.4 The need for communication access (car radio, telephone, etc.) shall not normally be considered adequate justification for a Town vehicle assignment.

3.5 Wherever possible, assigned Town vehicles shall be picked up and dropped off at the appropriate work station, thereby avoiding the assignment of take-home vehicles.

3.5.1 ASSIGNED VEHICLES: Assigned vehicles shall be determined by the Department Heads based on an employee's need for daily workday usage, and vehicle availability, but shall not include take-home vehicles.

3.6 TAKE HOME VEHICLES: Take-home Town vehicle assignments must be recommended by a Department Head authorized by the Board of Selectmen.

3.7 EMERGENCY RESPONSES: Take home vehicles may be assigned to Town employees who:

3.7.1 Are called out at least 6 times per quarter, or 24 times a year and have primary responsibility to respond to emergencies which require immediate response to protect life or property; and

3.7.2 Cannot use alternative forms of transportation to respond to emergencies; and

3.7.3 Cannot pick up Town-owned assigned vehicles at designated sites without impacting the employee's ability to respond to emergencies, which require immediate response to protect life and property.

3.7.3.1 Emergency response assignments should be supported by data demonstrating the actual number and nature of emergency responses. There must be an explanation as to why an employee cannot use alternative forms of transportation to respond to the emergencies or pick up a Town-owned assigned vehicle at a designated work station.

3.8 CALL OUT RESPONSES: Take home vehicles may be assigned to Town employees who:

3.8.1 Are paid to be on call for a specific duration and are expected to respond when called; or:

3.8.2 Are called out at least 6 times per quarter, or 24 times a year and have primary responsibility to respond to call-outs which require immediate response to protect life or property; and

3.8.3 Cannot use alternative forms of transportation to respond to call outs; and

3.8.4 Cannot pick up Town-owned assigned vehicles at designated sites without impacting the employee's ability to respond to call outs, which require immediate response to protect life and property.

3.8.4.1 Call out assignments should be supported by data demonstrating the actual number and nature of call out responses. There must be an explanation as to why an employee cannot use alternative forms of transportation to respond to the call outs or pick up a Town-owned assigned vehicle at a designated work station.

3.9 SPECIAL EQUIPMENT VEHICLES: Take home vehicles may be assigned if an employee needs specialized equipment or a special vehicle to perform Town work outside an employee’s normally scheduled workday.

3.9.1 Employees must have primary responsibility to respond to emergencies.

3.9.2 Special equipment vehicle assignments shall be supported by information describing the special equipment needed to perform the Town work. (For example, on a paramedic intercept vehicle, the equipment includes advanced airway equipment, cardiac monitor/defibrillator, IV solutions, specialized mass casualty supplies and medications.)

3.10 ECONOMIC BENEFIT TO THE TOWN: Take-Home vehicles may be assigned if employees’ private vehicle mileage reimbursement costs are greater than the commuting costs for an assigned Town vehicle with overnight vehicle usage.

EXAMPLE #1 (BENEFIT): EMPLOYEES LIVES 2 MILES FROM WORK, RESPONDED 40 TIMES IN 6 MONTHS.

Private Vehicle			Town Assigned Vehicle #				
A.	B.	C.	D.	E.	F.	G.*	H.
Number of call outs in 6 months	Total miles driven in 6 month call out	Reimbursement at Town Rate of \$0.36 per mile	Average Daily Commute Mileage	Average Monthly Commute Mileage	Total 6 month commute mileage	Vehicle # cost per mile \$0.483 times six months commute mileage	Economic Benefit or (loss) to the Town: Column C minus G
40	1000	\$ 360.00	4	120	720	\$ 347.76	\$ 12.24

* Note: Cost per mile includes gas, maintenance and repairs based on the prior 12 months

3.11 DISTANCE FROM WORK STATION CAP: For employees who qualify for take-home vehicle usage under sections 3.7, 3.8, 3.9, or 3.10 of this policy shall be subject to a 10 mile cap from their work station.

3.12 RE-AUTHORIZATION OF TAKE HOME VEHICLES: Take-home vehicle assignment period shall not be more than twelve (12) months unless re-authorized by the Town Administrator and Department Head.

3.12.1 The Board of Selectmen will annually review this policy and take home assignments to determine the need for changes or modifications of this policy.

3.13 EXEMPTIONS:

3.13.1 OCCASIONAL OVERNIGHT USAGE OF TOWN-OWNED VEHICLES:

Occasional overnight usage of Town-owned vehicles is permitted when authorized by the Department Head. Such occasional usage of Town vehicles may occur when an employee conducts Town business away from the employee's normal place of work, and outside the employee's normally scheduled work day. Other types of occasional overnight usage is permitted when the following conditions exist:

3.13.1.1 Inclement weather conditions: When employee is on-call and has primary responsibility to respond.

3.13.1.2 Emergency preparedness or seasonal assignment: Town-owned vehicle usage is permitted when an employee is on-call and the vehicle is taken home less than 12 times per quarter.

3.13.1.3 Attendance at required meetings or training, professional association meetings or committees and the vehicle is taken home less than 4 times per quarter.

Section 4. Internal Revenue Service Rules and Taxes

4.1 TAXABLE USE: The Internal Revenue Service (IRS) has determined that personal use of employer-owned vehicles is non-cash earnings subject to taxation. IRS regulations include the commute between the employee's residence and work station in the definition of personal use.²

4.2 CALCULATION OF TAXABLE BENEFIT:

4.2.1 For all employees, the Town will use the Annual Lease Method established by the IRS to determine the taxable benefit to the employee.

4.2.2 Employees will be taxed for income, Social Security and Medicare taxes as applicable for the value of their personal use of the vehicle.

² IRS Code 26 CFR Ch.1 (4-1-03 Edition) § 1.217-1 "The Taxpayer's cost of commuting to his place of business or employment are personal expenses and do not qualify as deductible expenses." The Town of Amherst, per Internal Revenue Code Section 132, classifies employer provided vehicles as a 'working condition fringe'. A 'working condition fringe' is 'any property or service provided to an employee of an employer to the extent that, if the employee paid for the property or service, the amount paid would be allowable as a deduction under section 162 or 167' and not included in gross income of the employee. Since personal use is not an allowable deduction, any personal use of vehicles provided by the Town of Amherst is considered a form of compensation to the employee and subject to all employee payroll tax withholdings. The employee's cost of commuting to and from employment is considered a personal expense per Internal Revenue Code Section 262, thus considered a non-cash benefit and taxable to the employee.

4.2.3 Value Assumptions: The value of the vehicle for the ensuing fiscal year will be based on its value on July 1 each year based on the Kelly Blue Book.

4.2.4 Based on the book value, the annual lease value shall be used as published each year by the IRS.

4.2.5 Once the annual lease value is determined, the Town will determine how much of the vehicle's use is personal and not reimbursed by the employee. Based on mileage logs the personal use will be determined by the percentage of the total use. (For example: if the total vehicle miles per year is 10,000 and the employee commutes 10 miles per day each way 52 week per year, or 5,200 miles, the employee is taxed on 52 percent of the annual lease value.

4.2.5.1 Example:

Annual Lease Method Example			
Fair Market Value of Vehicle	\$ 12,500.00	Annual Lease Amount per IRS	\$ 3,600.00
Total vehicle miles (1 Year)	15,000	Percentage of Personal Use	\$ 1,248.00
Total personal miles (not reimbursed)	5,200	Federal Income Tax (25%)	\$ 312.00
		Social Security (6.2%)	\$ 77.38
		Medicare (1.45%)	\$ 18.10
Percentage of Personal Use	35%	Total Employee Taxes	\$ 407.47

Section 5. Employee Rules and Responsibility

5.1 All Operators of Town vehicles shall possess a valid driver's license. Employees are responsible for notifying the Town if their license is suspended. Employees must forward a copy of their driver's license to their supervisor and Finance Office on an annual basis. In the event of license suspension, vehicle use privileges will be suspended and may be terminated. Employees are required to notify their supervisors of any violations or summonses received while in possession of, or operating a Town vehicle. Failure to do so may result in the loss of vehicle use privileges and employee disciplinary action.

5.2 Only Town employees are authorized to operate Town vehicles.

5.3 All drivers, as well as passengers must wear seat belts and obey traffic laws. Any moving violation citation incurred while operating a Town vehicle will be the employees responsibility. Parking tickets and equipment violation citations will be brought immediately to the supervisor and will be addressed on the specific circumstance.

- 5.4 Employees are strictly prohibited from operating a Town vehicle while under the influence of alcohol or illegal drugs. As a general rule, any use of alcohol within the previous six (6) hours would preclude the operation of any town vehicle. Employees are likewise prohibited from using prescription or over the counter medication which may impair their ability to safely operate a motor vehicle.
- 5.5 Smoking in any Town vehicle is prohibited.
- 5.6 In the case of an accident, the employee driving the vehicle shall immediately notify the nearest police department and notify his/her supervisor as soon as possible to report the accident and complete a full accident report. Copies of the completed accident report shall be forwarded to the employee's supervisor, the Town Administrator, and the Town's insurance carrier, along with the required "notice of claim" form.
- 5.7 Employees shall complete a Take-Home Vehicle Authorization Request Form and sign to certify that they have read and understand this policy. It shall be the responsibility of each Town employee assigned a Town vehicle to comply with this policy. Failure to comply with all provisions of this policy shall result in disciplinary action as well as suspension or termination of vehicle privileges.
- 5.8 Only Town employees or those who are conducting official business with the Town may be a passenger in a Town owned vehicle. Family members of an employee are not authorized to be transported in a Town owned vehicle.
- 5.9 Personal use such as stopping for a personal errand on the way between a business use and the employee's home should be *DE MINIMIS* or rare and minimal.

Section 6. Vehicle Use Procedures

- 6.1 Employees: Employees with assigned take-home vehicles shall:
 - 6.1.2 Complete the daily Vehicle Take-Home Trip Log Form for the assigned vehicle and submit a copy to their department head or supervisor no later than the 5th working day after the end of each month. The trip log shall contain all information on the form:
 - 6.1.2.1 Vehicle number, month, year, department, employee name, employee position/title, regular work hours, beginning of the month odometer..
 - 6.1.2.2 Enter the total daily commute miles, and the total daily business miles, and list the trip destination, including checking the box if the trip was an emergency call out.

6.1.2.3 Forward copies of the completed Vehicle Trip Logs to the Finance Department, no later than 5 working days after the end of each month, so that auto fringe withholdings can be made for those days on which a Town vehicle was used for commuting.

Section 7. Employee Acknowledgement

7.1 EMPLOYEE ACKNOWLEDGEMENT: I acknowledge that I have received a copy of the Town of Amherst Vehicle Use Policy, and I understand that it is my responsibility to read and comply with the policies contained in this policy and any revisions made to it.

7.2 EMPLOYEE'S NAME (PRINTED): _____

7.3 EMPLOYEE'S SIGNATURE: _____

7.4 DATE: _____

Section 8. Implementation

8.1 To facilitate conduct in accordance with this policy, a copy of this policy shall be made available to town employees upon hiring and at such other times as may be necessary.

Adopted by vote of the Board of Selectmen on this date, the 23rd of Aug, 2004.

Robert Heaton, Chairman

Jay Dinkel, Vice-Chairman

Marilyn Peterman, Selectman

Bruce Bowler, Selectman

George Infanti, Selectman

Received and Recorded: _____, 2004

Nancy A. Demers
Town Clerk