

BOX ELDER COUNTY PERSONNEL POLICIES AND PROCEDURES

24.	Personal Use of County Property
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24.1.1 Effective Date

This policy shall take effect immediately upon adoption by the Box Elder County Commission.

24.1.2 Purpose

- A. This policy is meant to assure responsible use of Public Property and control excessive or unlawful use of Public Property by Public Servants.
- B. This policy provides Public Servants serving Box Elder County guidance as to authorized personal use of Public Property to avoid unintentional violations of U.C.A. §76-8-402 and U.C.A. §67-16-4(1)(c).

24.1.3 Applicability and Scope

- A. This policy applies to all use of all Public Property as defined herein.
- B. This policy supersedes and replaces all other County policies related to the personal use of Public Property.

24.1.3.1 Definitions

The following definitions shall apply to this policy:

- A. "Auditor" means the Box Elder County Auditor.
- B. "County" means Box Elder County.
- C. "County Commission" means the Box Elder County Commission.
- D. "De minimis" means a nominal value of less than \$50.00, but does not include value of damage to the Public Property when used by the Public Servant for personal use when the Public Servant timely reimburses the County for such damage.
- E. "Incidental" has the meaning defined in the Policy Statements section of this policy. Any use identified as incidental under this policy which is not considered incidental under U.C.A. §76-8-402 or U.C.A. §67-16-4(1)(c) is an authorized use under this policy.
- F. "Public Property" means any real or personal property owned, leased or rented by the County, until such time as the property has been surplus. For purposes of this policy,

Public Property does not include funds, money, credit and accounts owned or controlled by the County. Public Property does not include real or personal property owned, leased or rented by a Public Servant used in whole or in part by the Public Servant to perform their duties as a County Public Servant, regardless of any reimbursement, allowance, stipend, per diem or payment made by the County in recognition of use of the Public Servant's property benefiting the County.

- G. "Public Servant" means all Directors, Officers, employees, volunteers, board members, consultants and contractors of Box Elder County.

24.1.3.2 Policy Statements

- A. The County means for this policy to constitute a "written policy of the public servant's entity" for purposes of U.C.A. §76-8-402(1)(b)(iii).
- B. The County means to restrict unreasonable personal use of Public Property by Public Servants.
- C. The County considers that the penalty under U.C.A. §76-8-402 of a felony for any level of unauthorized personal use of Public Property is extreme and therefore the County means to protect its Public Servants from unintentionally violating U.C.A. §76-8-402 and/or U.C.A. §67-16-4(1)(c).
- D. The County recognizes as an employer competing for competent employees in the marketplace, that it must consider, in part, property provided to employees by employers in the competing marketplace and the limitations that other employers place on personal use of such property.
- E. The County means to broadly authorize all personal use of Public Property by Public Servants with a procedure to limit personal use only after providing written notice or implementing new written policies approved by the County Commission.
- F. Because this policy supersedes and replaces all other policies related to personal use of Public Property, the County intends that any new policies must be implemented by the County Commission or proposed by County department heads and approved by the County Commission.
- G. The only personal use of Public Property considered to be unauthorized or prohibited is:
 - 1. Personal use which occurs after the Public Servant has received a written notice that the use is unauthorized or prohibited under this policy if the Public Servant does not appeal the written notice, or which occurs after the Public Servant appeals and receives a written decision from the County Commission finding that the personal use will be considered unauthorized or prohibited under this policy;

2. Personal use which is in violation of any policies implemented by the County Commission or proposed by County department heads and approved by the County Commission subsequent to the adoption of this policy.
- H. The County Commission means to provide broad discretion to the Auditor and the members of the County Commission in authorizing personal use of Public Property by Public Servants under their supervision and control.
- I. The County Commission recognizes that all Incidental personal use of Public Property by a Public Servant is authorized under U.C.A. §76-8-402 and further authorizes all Incidental personal use under this policy. The County Commission considers Incidental personal use to include, but not be limited to:
1. Use of Public Property for limited use of a personal nature when the individual is using the Public Property to perform their duties of office, employment or service under contract and does not significantly interfere with the Public Servant's duties and/or the conduct of the business and operations of the County;
 2. Use of Public Property of a personal nature when such use of the Public Property:
 - a. Is available to the general public;
 - b. Does not create more than a de minimis cost to the County;
 - c. Is provided or required to be provided to the Public Servant as an employee benefit or convenience, such as lunchroom and nursing room facilities;
 - d. Is not clearly prohibited by this policy, and the Public Servant timely reimburses the cost of the personal use to the County;
 - e. Is accidental or unintentional and the Public Servant timely reimburses the cost of the personal use to the County;
 - f. Is property for which the County provides a Public Servant an allowance, stipend or reimbursement, including but not limited to personal vehicles, cell phones, tools and other items of personal property which are privately owned and authorized for personal use;

24.1.4 Procedures and Responsibilities

- A. If the Auditor believes that a Public Servant is using Public Property in a manner that is not incidental or should not be authorized, they shall give the Public Servant and that Public Servant's department head a written notice that specifically informs the Public Servant that the personal use is not considered incidental and will not be considered authorized as of the date of the written notice, or as of the date of a final written determination by the County Commission of an appeal of the written notice. The written notice shall include an explanation from the Auditor as to why the Auditor believes the personal use is not incidental or authorized.
- B. In determining if personal use should be authorized the Auditor shall consider whether the personal use of Public Property:

1. Substantially interferes with the use of the Public Property to perform duties of office, employment or service under contract;
 2. Creates only a de minimis cost to the County;
 3. Creates more than a de minimis cost to the County but provides a benefit to the County or its residents as determined by the County Commission;
 4. Creates more than a de minimis cost to the County but the employee reimburses the County for the cost off the personal use of the Public Property at a rate determined by the County Commission;
 5. Provides the Public Servant with training and familiarity with the Public Property which will allow them to be more proficient with its use to perform their public duties;
 6. Provides support of other agencies or community organizations which promotes good will between those agencies or community organizations and the County;
 7. Provides any reasonably arguable benefit to the County.
- C. A Public Servant or the Public Servant's department head may request the Auditor to reconsider a written notice provided under this section, and provide the Auditor with whatever evidence the Public Servant or the Public Servant's department head feels is relevant as to why the Public Servant's personal use of Public Property is incidental or should be authorized. Any request to the Auditor to reconsider a written notice must be made within 5 business days. Upon reconsideration, the Auditor may modify, amend or rescind the written notice.
- D. A Public Servant or the Public Servant's department head may appeal a written notice provided under this section to the County Commission if they believe their personal use of Public Property should be authorized, by providing a written request for appeal of the written notice. This appeal must be in writing and delivered to the County Commission within 5 business days of receipt of the written notice from the Auditor or within 5 business days of the Auditor's response to a request for reconsideration, whichever is later. The County Commission shall hear either in writing or in person the Auditor and the Public Servant and/or the Public Servant's department head, and make a decision whether the personal use of the Public Property will be authorized or prohibited. The County Commission shall inform the Auditor and the Public Servant of their decision within 10 days of making their decision.
- E. The County Auditor shall notify a Public Servant of any cost to be reimbursed to the County for personal use of Public Property, which was not clearly prohibited by this policy, was accidental or unintentional or due to damage to Public Property during personal use of the Public Property by the Public Servant.
- F. The Public Servant shall timely reimburse the County the amounts determined by the Auditor under this section or contest the amount of the reimbursement to the Auditor within 5 business days of notice from the Auditor. The Auditor shall within 5 business days of receipt of such notice to contest the amount of reimbursement provide the Public Servant a decision regarding the amount of reimbursement.
- G. If the Public Servant does not agree with the decision of the Auditor of the amount of reimbursement for personal use of Public Property, the Public Servant shall request an

appeal of the Auditor's decision to the County Commission within 5 business days of receipt of the Auditor's decision. The County Commission shall consider the requested appeal at its next scheduled meeting and provide the Public Servant its final decision on the amount of reimbursement within 10 business days of that meeting.

- H. The Auditor shall investigate any suspected violation of this policy and shall report any prohibited or unauthorized personal use of Public Property to the County Commission within 60 days of a determination of such violation.