

Chapter 140. Use of County-Owned Passenger Vehicles While Off-Duty¹

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Subchapter A. General Provisions

140.001 Authority

The Travis County Commissioners Court adopts this chapter under the authority of the laws of the State of Texas.

140.002 Intent of Chapter

The purpose of this Chapter 140 is to establish:

- (1) Consistent, County-wide policies and procedures regarding the use of County-owned passenger vehicles;
- (2) Requirements for taking County- owned passenger vehicles to the employee's residence; and
- (3) Policies applicable to County employees who receive vehicle allowances or mileage reimbursements.

¹ Chapter 140 was replaced by Travis County Commissioners Court on August 11, 2020, Item #22.

140.003 Application of Chapter

- (a) This Chapter 140 applies to the use of county-owned passenger vehicles by Travis County employees while off-duty.
- (b) This Chapter 140 controls over section 1.019 of this Travis County Code. The said section 1.019 shall, however, control the use of vehicles belonging to Travis County which are not county-owned passenger vehicles and will control the use of county-owned passenger vehicles by Travis County employees who are not off-duty.
- (c) This Chapter 140 shall also be known as the "Take-Home Vehicle Policy."

140.004 Effective Date

This chapter becomes effective the date the Travis County Commissioners Court adopts it.

140.005 Definitions

In this chapter:

- (1) "Appointed official" means any constitutionally or statutorily created office which is filled by appointment of more than one elected official acting together, such as the County Auditor, the Chief Juvenile Probation Officer, or the Juvenile Public Defender.
- (2) "County-owned passenger vehicle" means any motor-driven vehicle which:
 - (A) Either has or, in accordance with this Travis County Code, should have its title registered in the name of Travis County; and
 - (B) Is designed primarily to transport people, rather than to transport cargo or to perform some mechanical function, such as excavation or road grading.
 - (C) Pick-up trucks and cargo vans shall be presumed to be designed primarily to transport people.
 - (D) County-owned passenger vehicle does NOT include Qualified Non-Personal Use Vehicles, as set forth section 140.037.
- (3) "Duty location" means the place or places at which an employee must normally or usually attend at the beginning of any normal period of duty.
- (4) "Off-duty" means any time when an employee of Travis County is not performing his or her duties as an employee of Travis County.

[140.006 - 140.009 reserved for expansion]

Subchapter B. Use of County-Owned Passenger Vehicles by Employees

140.010 Eligibility

An elected or appointed official or county executive may authorize an employee to drive a county-owned passenger vehicle while off-duty if and only if the vehicle has been appropriated to the use of the elected or appointed official or county executive by the Commissioners Court, and one of the following three conditions apply.

- (1) Condition 1
 - (A) The employee's duties are such that:
 - (i) The employee utilizes the county-owned passenger vehicle at least 40% of their working hours in order to perform his or her official duties of the office or department, including at times other than the employee's normal duty hours; or
 - (ii) The employee is designated as on-call at all times, required to respond whenever called, and whose vehicle requires special equipment that cannot be reasonably purchased, installed, replaced and maintained by an employee in a personal vehicle or on-call; AND
 - (B) Allowing the employee to drive a county-owned passenger vehicle while off-duty will:
 - (i) increase Travis County's ability to respond to public safety or law enforcement emergencies or
 - (ii) increase the operational efficiency of Travis County.
- (2) Condition 2. The employee has no duty location and uses the county-owned passenger vehicle in the performance of his or her duties.
- (3) Condition 3. The employee uses the county-owned passenger vehicle in the performance of his or her duties, and the employee's residence is closer to the employee's duty location.

140.011 Commissioners Court Authorization

No elected or appointed official or county executive may authorize himself or herself to drive a county-owned passenger vehicle while off-duty. However, anything herein to the contrary notwithstanding, the Commissioners Court may, in appropriate circumstances, authorize an elected or appointed official or county executive to drive a county-owned passenger vehicle while off-duty.

140.012 Violations of Policy

- (a) County departments/offices whose employees knowingly violate the provisions of this Policy shall surrender the County vehicle to Centralized Fleet, upon completion of investigation by the Commissioners Court.

- (b) The Commissioners Court may consider violations of this Policy on an individual basis to determine if the vehicle should be removed from the department/office's fleet.

[140.013 - 140.016 Reserved for expansion]

140.017 Application

An application for take home use of a county-owned passenger vehicle must be completed by all employees and officials who operate a county-owned passenger vehicle on County business. All information requested in the application must be provided before a driver will be approved by the Risk Management Department.

140.018 Distance of Residence

In order to remain eligible for the assignment of a county-owned passenger vehicle, an official, executive or employee must reside no more than 25 miles from his or her duty station.

140.019 Travel to and from Duty Location

- (a) Employees are not on duty or performing their duties as employees of Travis County while travelling to or from their duty locations and their places of residence.
- (b) Nothing in this Chapter shall be construed to mean that an employee is on duty or is performing his or her duties as an employee of Travis County while traveling to or from the employee's duty location and the employee's residence.

140.020 Vehicle Assignment

Vehicles may be assigned full time or rotationally to a job position, assigned temporarily for a short time period, or assigned on a daily basis.

[140.021 - 140.025 Reserved for expansion]

140.026 Adoption of Rules Requirement

- (a) Any elected or appointed official or county executive who authorizes an employee to drive a county-owned passenger vehicle while off-duty shall adopt written rules for their office or department governing the use of county-owned passenger vehicles while off-duty.
- (b) In order to comply with IRS regulations, departmental rules shall prohibit:
 - (1) All personal use of a county-owned passenger vehicle, except for commuting and *de minimus* use.

- (2) The use of a county-owned passenger vehicle to, from, or for other employment, with the exception of off-duty assignments by peace officers in the furtherance of public safety. (Please note that hours worked and mileage incurred using a vehicle in an off-duty capacity do not count towards the fulfillment of eligibility requirements for take home use of a vehicle.)
 - (3) Occupancy of a county-owned passenger vehicle by an individual who is neither a county employee nor engaged in official county business, nor in the custody of law enforcement. (For example, an employee is not permitted to use a county vehicle to drive children to school.)
- (c) Departmental rules must require employees assigned take home vehicles to commute to and from work in their assigned vehicles.
 - (d) Copies of such rules shall be delivered to the Travis County Auditor and the Travis County Risk Manager within thirty (30) days after the adoption of this Chapter 140 by the Travis County Commissioners Court. Thereafter, copies of such rules and any changes thereto must be delivered to the Travis County Auditor and the Travis County Risk Manager prior to authorizing any employee to drive a county-owned passenger vehicle while off-duty.
 - (e) Personal use of a vehicle by a control employee using the commuting valuation rule is prohibited. A control employee includes an Elected official or an employee whose compensation is at least as great as a Federal Government employee at Executive Level V, as set forth in Internal Revenue Service, Publication 15-B (2020).

140.027 Required Authorization Form

- (a) Any elected or appointed official or county executive who authorizes an employee to drive a county-owned passenger vehicle while off-duty shall complete a Take-Home Vehicle Authorization Form that memorializes the vehicle assigned and terms of the vehicle use.
- (b) The Auditor's Office will make a sample Take-Home Vehicle Authorization Form available to the elected or appointed officials or county executives upon request.

140.028 Required Vehicle Usage Log

- (a) In order to comply with IRS substantiation rules, each County employee who operates a county-owned passenger vehicle while off-duty, commuting or on County business must complete a Vehicle Usage Log.
- (b) The Auditor's Office Payroll Division will determine the form, timing and remission methodology of this log. The Auditor's Office will make a sample Vehicle Usage Log with instructions available to the elected or appointed officials and county executives upon request.

140.029 Required Reports

- (a) Any elected or appointed official or county executive who authorizes any employee to drive a county-owned passenger vehicle while off-duty shall make the following reports to the Travis County Risk Manager and the Travis County Auditor's Office Payroll Division.
- (1) Authorized Driver List. The elected or appointed official or county executive shall provide to the Travis County Auditor's Office Payroll Division and the Risk Manager a list containing, for each employee authorized to drive a county-owned passenger vehicle while-off duty:
 - (A) the name of each employee, assigned vehicle, together with
 - (b) each employee's job title,
 - (C) the county of the employee's residence, and
 - (D) whether the employee is authorized to drive a county-owned passenger vehicle while off-duty pursuant to section 140.010(1), 140.010(2), or 140.010(3).
 - (2) Authorized Vehicle List. A list of all vehicles which the elected or appointed official or county executive has authorized to be driven by an employee while off-duty, uniquely identifying each vehicle by make, model, and year of the vehicle, the vehicle identification number, and the license number. If the vehicle is routinely assigned to a single employee for that employee's use while off-duty, then, for each such vehicle, the list of vehicles required by this section shall also include the estimated number of miles between the employee's duty location and the employee's residence.
 - (3) Off-Duty Employment Report. A report describing the use of any county-owned passenger vehicle which is driven by any employee while engaged in the employment of any other employer than Travis County, hereinafter referred to as "off- duty employment," which report shall hereinafter be referred to as the "off-duty employment report."
 - (A) The off-duty employment report shall uniquely identify each vehicle which has been driven by an employee while on off-duty employment and, for each separate use for off-duty employment, shall state the name of the off-duty employer, the date of the off-duty employment use, the actual odometer readings of the vehicle at the beginning and the ending of each such off-duty employment use, and the actual starting and ending times of each such off-duty employment use.
 - (B) The off-duty employment report shall be filed within ten (10) days after each January 1, April 1, July 1, and October 1 and shall report all use of county- owned passenger vehicles by any employee while engaged in off-duty employment for the three months preceding each January 1, April 1, July 1, and October 1.

- (b) **Deadlines to File Driver List and Vehicle List**
 - (1) The reports required by section 140.029(a)(1) and (2) shall initially be filed within thirty (30) days after the adoption of this Chapter 140. Thereafter, they shall be updated as often as needed to reflect the current lists of employees and vehicles.
 - (2) After the expiration of thirty(30) days after the adoption of this Chapter 140, no authorization pursuant to this Chapter 140 shall be valid unless the employee and the vehicle are contained on the reports filed pursuant to section 140.029(a)(1) and (2).
- (c) **Deadlines to file Off-Duty Employment Report**
 - (1) The beginning date of the period to be covered by the first off-duty employment report is thirty (30) days after the adoption of this Chapter 140.
 - (2) The first off-duty employment report shall be due within ten (10) days after the first January 1, April 1, July 1, or October 1 following the expiration of thirty (30) days after the adoption of Chapter 140.

140.030 Annual Questionnaire

- (a) The Payroll Division of the Auditor’s Office will provide an annual questionnaire to departments/offices for employees to complete prior to the end of each calendar year.
- (b) The questionnaire, departmental/office policies, Authorization Forms and Usage Logs will be used in a comprehensive analysis to determine the employees tax obligations.

[140.031 - 140.035 Reserved for Expansion]

140.036 Tax Implications

- (a) Commuting in county-owned passenger vehicle is considered personal use for tax purposes by the Internal Revenue Service (“IRS”), except for Qualified Non-personal Use Vehicles as defined by 26 Code of Federal Regulation 1.274-75 and set forth in section 140.037 of this Chapter.
- (b) Off-duty use of a county-owned passenger vehicle, which does not fall under an exemption, is taxable to the employee as a fringe benefit.
- (c) Taxable use of a county-owned passenger vehicle will be assessed in accordance with current IRS requirements.

140.037 Exemptions to Taxation

- (a) **Qualified Non-personal use vehicles.** Qualified non-personal use vehicles include most vehicles that are not considered to be standard passenger vehicles, and include, but are not limited to, the following examples:
- (1) Clearly marked police and fire vehicles. These vehicles have additional driver, agency, use and on-call requirements as stated in 26 Code of Federal Regulations 1.274-5 (k) (3) and (6) apply.
 - (2) Delivery trucks with seating only for the driver and a folding jump seat
 - (3) Flatbed trucks
 - (4) Cargo vehicles with a gross vehicle weight over 14,000 pounds
 - (5) Passenger buses with a capacity of at least 20 passengers
 - (6) Ambulances or hearses
 - (7) Bucket trucks or "cherry pickers"
 - (8) Cranes and derricks
 - (9) Forklifts
 - (10) Cement mixers
 - (11) Dump trucks and garbage trucks
 - (12) Refrigerated trucks
 - (13) Tractors
 - (14) Combines
 - (15) School buses
 - (16) Specialized utility repair trucks
 - (17) Moving vans
 - (18) Unmarked police vehicles. These vehicles have additional driver, agency, use and on-call requirements as stated in 26 Code of Federal Regulations 1.274-5 (k) (3) and (6) apply-
 - (19) All other vehicles exempted by the IRS under special rulings
- (b) **Marked Police and Public Safety Vehicles.** Clearly marked police and public safety officer vehicles are considered to be exempt, qualified non-personal use vehicles only when ALL of the following criteria have been met:
- (1) The driver is a police, fire, or public safety officer defined by 26 Code of Federal Regulations 1.274-5.
 - (2) The vehicle is required by a documented office/departmental policy to be used for commuting by a police officer, fire fighter or public safety officer when not on a regular shift.

- (3) The individual is on call at all times, and the employee must clearly document their history of call backs. The County requires a minimum of 10 emergency calls per year and the employee must be a first responder directly to the scene of an emergency.
 - (4) Any personal use (other than commuting) of the vehicle outside the limit of the public safety officer's obligation to respond to an emergency is prohibited by office or departmental policy.
 - (5) A vehicle is clearly marked if, through painted insignia or words, it is readily apparent that the vehicle is a public safety officer vehicle.
- (c) Unmarked Law Enforcement Vehicles. An exception to taxation exists for unmarked police vehicles only when ALL of the following narrow combination of circumstances are met:
- (1) The driver is defined as law enforcement officer defined by 26 Code of Federal Regulations 1.274-5.
 - (2) Personal use must be incident to law-enforcement functions and authorized by the federal, state, county, or local governmental agency or department that owns or leases the vehicle and employs the officer.
 - (3) Any personal use must be incident to its law-enforcement purpose, such as being able to report directly from home to a stakeout or surveillance site or an emergency response.