

Treas. Reg. §1.61-21(c)(3)(ii) maintains that, in order to qualify for use of the special valuation rules, one of the following four (4) conditions must be satisfied:

1. The employer treats the value of the benefit as wages for reporting purposes on a timely basis, which is the time for filing returns for the taxable year, including extensions, in which the benefit is provided;

2. The employee includes the value of the benefit in income on a timely basis;

3. The employee is not a control employee as described in Treas. Reg. §§1.61-21(f)(5) and (6), such as a highly compensated employee (compensation greater than one hundred thousand dollars (\$100,000) in the case of a government employer); or

4. The employer demonstrates a good faith effort to treat the benefit correctly for reporting purposes.

Treas. Reg. §1.61-21(e)(2) defines a vehicle as any motorized wheeled vehicle, including an automobile, that is manufactured primarily for use on public streets, roads, and highways. Treas. Reg. §1.61-21(d)(1)(ii) defines an automobile as any four-wheeled vehicle manufactured primarily for use on public streets, roads, and highways.

The Village has elected to use the commuting valuation method.

(c) Commuting Valuation Rule. Under Treas. Reg. §1.61-21(f), personal use for commuting can be valued at one dollar and fifty cents (\$1.50) each way three dollars (\$3.00) a day, provided the following criteria are met:

(1) The vehicle is owned or leased by the employer;

(2) The vehicle is provided to the employee for business use;

(3) The employer requires the employee to commute in the vehicle for valid non-compensatory business reasons;

(4) The employer has a written policy prohibiting a person's use other than commuting or de minimis personal use;

(5) The employee does not use the vehicle for personal use; and

(6) The employee required to use the vehicle for commuting is not a control employee, as described under Treas. Reg. §§ 1.61 -21(f)(5) and (6), such as a highly compensated employee (compensation greater than one hundred thousand dollars (\$100,000)) in the case of a government employer.

(d) Qualified Non-Personal Use Vehicles.

(1) Temporary (Temp.) Treas. Reg. §1.274-5T(k)(ii) defines a qualified nonpersonal use vehicle as any vehicle that, by reason of its nature (design), is not likely to be used more than a de minimis amount for personal use. The recordkeeping and substantiation requirements of IRC §274( d) do not apply to qualified, non-personal use vehicles. Examples of such vehicles include clearly marked police and fire vehicles, certain unmarked vehicles used by law enforcement officers, tractors and other special purpose farm vehicles, qualified specialized utility repair trucks, flatbed trucks, dump trucks, and school buses.

## EXHIBIT A

### VILLAGE OF NEHAWKA NEBRASKA

#### POLICY ON EMPLOYEE USE OF VILLAGE-OWNED VEHICLES

This written policy supersedes any and all prior policies of the Village of Nehawka (hereinafter the "Village") with respect to Employee use of Village-owned vehicles (hereafter referred to as "Village-Owned Vehicles.").

(a) De Minimis Use. "De minimis" as used throughout this policy shall mean "occasional, infrequent or not routine". "De minimis" shall not mean more than once a month.

This policy applies as follows:

Vehicles owned or leased by the Village and dedicated to the service and use of the Village.

(1) Assigned vehicles to designated employees.

A. The Village, as an Employer, provides vehicles assigned to certain Employees of the Village for business use as a condition of their employment;

B. Said Employer provides Village-Owned Vehicles to be used by various employees from time to time including maintenance employees. Said Employees are required to commute to and from work in the Village-Owned Vehicle and, therefore, said Employees are required to commute in the vehicle for non-compensatory business reasons.

C. Personal use other than commuting or de minimis personal use is prohibited. De minimis personal use, such as stopping for lunch between business trips during the normal course of conducting business, is an extension of business use and is not considered personal use.

D. Employees who are furnished a Village-Owned Vehicle pursuant to this policy cannot be a control employee, as described under Treas. Reg. §§1.61.21(f)(5) and (6).

E. Personal use of Village-Owned Vehicles is taxable and included in the Employee's gross income on Form W-2.

F. Commuting does not qualify as de minimis personal use.

G. Every Employee who may be provided a Village-Owned Vehicle shall acknowledge receipt of and understanding of this written policy.

(b) Explanation of Policy.

(1) There are at least three (3) different valuation methods under Internal Revenue Service Regulations and the Internal Revenue Code for computing taxable Employee personal use of Village-Owned Vehicles.

(2) The three special valuation rules include:

A. The automobile lease valuation rule,

B. The vehicle cents-per-mile rule, and

C. The commuting valuation rule.

**VILLAGE OF NEHAWKA RESOLUTION 2021-2**

**A RESOLUTION OF THE GOVERNING BODY OF THE VILLAGE OF NEHAWKA  
ADOPTING A VEHICLE POLICY**

WHEREAS, it has been deemed in the best interest of and for the health, safety, and welfare of all Village residents to enact a Vehicle Policy that incorporates the guidelines to be followed by drivers of all Village-owned vehicles;

WHEREAS, the Village deems it appropriate to adopt a formal written policy regarding the use of Village-owned vehicles.

NOW, THEREFORE, BE IT RESOLVED, by the Village Board of the Village of Nehawka, by majority vote, that:

1. The Vehicle Policy is hereby and herein adopted to read as set forth in Exhibit "A", attached hereto and incorporated by reference.
2. All Village Ordinances in conflict herewith are hereby repealed and amended as provided above.
3. This Ordinance shall be in full force and effect upon passage, posting or publication according to law.

PASSED AND APPROVED this 8th day of September, 2021.

  
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Robert Sorenson, Chairperson

Attest:

  
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Patricia Neu, Village Clerk/Treasurer