

**SAN JUAN COUNTY  
PERSONAL USE OF PUBLIC PROPERTY POLICY**

[This document shall be incorporated into the San Juan County Personnel Policies and Procedures Manual as Appendix D.]

**SECTION I.           Effective Date and Frequency of Review.**

- A.     The effective date of this policy is June 30, 2019.
- B.     This policy should be reviewed annually, but not less than every three years by the Board of Commissioners. This policy will also be reviewed any time that changes to laws or rules governing personal use of public property of interlocal agencies are amended in a manner which would require review and update to this policy.

**SECTION II.          Purpose.**

- A.     This policy is meant to assure responsible use of public property and control excessive or unlawful use of public property by San Juan County employees.
- B.     This policy provides 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).

**SECTION III.        Authority.**

- A.     The County Board of Commissioners has authority to implement this policy as the governing body of San Juan County.

**SECTION IV.           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, except where specific department or county policies are or have been established to address the particular needs of an individual department or the use of a specific category of public property.

**SECTION V.          Definitions.**

- A.     “Commission” means the Board of San Juan County Commissioners.

- B. “De minimis” means a nominal value of less than \$100.00 but does not include value of damage to public property when used by an employee for personal use when the employee timely reimburses the County for such damage.
- C. “Incidental” has the meaning defined in Section VI Policy Statements 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.
- D. “Public property” means any real or personal property:
  - 1. Owned, leased or rented by the County, until such time as the property has been surplus; or
  - 2. Provided to an independent contractor of the County for the purpose of providing a program or service for, or on behalf of, the County.
- E. “Employee” means all elected officials, directors, officers, employees and independent contractors of the County.
- F. “The County” means San Juan County.
- G. “Other County Board” means any board that has been created by the County to oversee specific business (i.e. Weed Board, Transportation Service District, etc.)

## **SECTION VI. Policy Statements.**

- A. The Commission means for this policy to constitute a written policy of San Juan County for purposes of U.C.A. §76-8-402(1)(b)(iii).
- B. The Commission means to restrict unreasonable personal use of public property by employees.
- C. The Commission considers that the penalty under U.C.A. §76-8-402 of a felony for any level of unauthorized personal use of public property as extreme and therefore the Commission means to protect its employees from unintentionally violating U.C.A. §76-8-402 and/or U.C.A. §67-16-4(1)(c).
- D. The Commission means to broadly authorize de minimis personal use of public property by employees with a procedure to limit personal use in specific cases only after providing written notice.
- E. Personal use of public property is considered to be unauthorized when it occurs after the employee has received a written notice that the use is unauthorized or prohibited under this policy and the employee does not appeal the written notice, or that which occurs after

the employee receives a written decision from the Commission finding that the personal use is considered unauthorized or prohibited under this policy.

- F. The Commission means to provide broad discretion to the County Administrator, department heads, and other County boards in authorizing personal use of public property by employees under their supervision or control.
- G. The Commission recognizes that incidental personal use of public property by an employee is authorized under U.C.A. §76-8-402 and further authorizes incidental personal use under this policy. The Commission considers incidental personal use to include:
  - 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;
  - 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 employee as an employee benefit or convenience, such as lunchroom and nursing room facilities;
    - d. Is not clearly prohibited by this policy; or
    - e. Is accidental or unintentional and the employee timely reimburses the cost of the personal use to the County.

#### **SECTION IV. Procedures and Responsibilities.**

- A. If the County Administrator, a department head, or a supervisor or believes that an employee is using public property in a manner that is not incidental or should not be authorized, they shall give the employee a written notice that specifically informs the employee 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 Commission of an appeal of the written notice.
- B. In determining if personal use should be authorized, the County Administrator or a department head shall consider whether the personal use of public property:
  - 1. Does not substantially interfere 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 employees as determined by the Commission;
  - 4. Creates more than a de minimis cost to the County but the employee reimburses the County for the cost of the personal use of the public property at a rate determined by the County;
  - 5. Provides the employee 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; or
  7. Provides a reasonably arguable benefit to the County.
- C. An employee may appeal a written notice provided under this Section to the Commission if they believe their personal use of public property should be authorized by providing a written request for appeal of the written notice within five business days of receipt of the written notice. The Commission shall hear either in writing or in person the person who issued the written notice and the employee, and make a decision on whether the personal use of the public property will be authorized or prohibited. The Commission shall inform the County Administrator and the employee of their decision within 10 days of their decision.
- D. The CFO shall notify an employee of the cost to be reimbursed to the County for personal use of public property, which was not clearly prohibited by this policy, when that use was accidental or unintentional or due to damage to public property during personal use of public property by the employee.
- E. The employee shall timely reimburse the County the amounts determined by the CFO under this section or contest the amount of the reimbursement to the CEO within five business days of notice from the CFO. The CFO shall within 5 business days of receipt of such notice to contest the amount of reimbursement provide the employee and the CFO a decision regarding the amount of reimbursement.
- F. If the employee does not agree with the decision of the CFO of the amount of reimbursement for personal use of public property, the employee shall request an appeal of the CFO's decision to the County Commission within 5 business days of receipt of the CFO's decision. The Commission shall consider the requested appeal at their next scheduled meeting and provide the employee notice of their final decision on the amount of reimbursement within 10 business days of that meeting.