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| CITY OF SPOKANE ADMINISTRATIVE POLICY AND PROCEDURE | ADMIN 0040-10-06 LGL 2009-0022 |
| TITLE: Wireless Communication Devices (Cell Phones) EFFECTIVE DATE: June 10, 2009 REVISION EFFECTIVE DATE: November 17, 2010 | |

1.0 GENERAL

1.1 The purpose of this policy is to provide guidelines regarding wireless communication devices. This policy enables the City of Spokane to meet its fiduciary responsibility to the taxpayers. It is recognized that the day-to-day operations of the workforce require voice and data communications and there is often a need to communicate when access to a regular telephone or computer is unavailable. Wireless communication devices are a valuable resource for certain personnel in order to conduct City business in an effective and timely manner.

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2.0 DEPARTMENTS/DIVISIONS AFFECTED

This policy shall apply to all City divisions, departments, and employees.

3.0 REFERENCES

United States Code Title 26, Subtitle A, Chapter 1, Subchapter B, Part 1, Section 61(1)(1)
IRS - "Taxable Fringe Benefit Guide"
Chapter 42.56 RCW - Public Records Act
RCW 46.61.667 - Cell Phones
RCW 46.61.668 - Text Messaging

4.0 DEFINITIONS

- 4.1 "Wireless Communication Device" is any device that is used, by any measure, to send or receive wireless voice or data transmissions, commonly referred to as cell phones (hereinafter "cell phones"). This does not include the City's two-way radio devices.

5.0 POLICY

- 5.1 The City of Spokane recognizes that cell phones may be an important and necessary tool in the performance of certain employees' job duties. For those employees who have an approved and valid business purpose, the City of Spokane will, subject to specified terms and restrictions, provide a City owned cell phone for that employee's business use. For those employees who regularly use a personal cell phone for City of Spokane business purposes, a cell phone allowance may be provided.

It is the intention of the City to strictly curtail and limit the number of City owned cell phones with internet and/or data capability. When internet or data capability is warranted, it is the intention of the City to make such provision by means of a cell phone allowance as specified herein.

- 5.2 The determination of which phone and plan is appropriate for each employee will be made by the Management Information Services (MIS) Department, except for Police and Fire department employees, whose phone and plan will be determined by their respective departments. This determination will be made by taking into account the employee's individual job duties and related wireless communications needs. These needs will be determined by consulting with the department/division head and when necessary, the employee. Based on these individual needs, it will be the responsibility of MIS/Police/Fire to procure the most cost effective alternative of cell phone and plan. State contracts, pooling of minutes, and free phone offers are examples of the methods that will be used to establish the most cost effective alternative for cell phones and plans.
- 5.4 To meet the City's goal to strictly curtail and limit the number of City-owned cell phones, especially those with internet and/or data capacity, an employee may be eligible to receive a cell phone allowance. Only employees who have a legitimate business need, and who would normally be eligible for a City-owned cell phone are eligible for the cell phone allowance. The request to utilize a personal cell phone for regular business purposes and receive an allowance must be approved by the employee's department or division head. If approved, the amount of the allowance will approximate the business portion of use, and what the cost to the City would have been to issue the employee a City owned cell phone.

- 5.5 Determination of eligibility and the dollar amount of the allowance is made at the department/division head level, but must be approved by the City Administrator. The allowance must be within the guidelines and dollar limits established under this policy. [SEE APPENDIX 1: CELL PHONE ALLOWANCE TIERS]
- 5.6 If an employee chooses a cell phone allowance, the employee shall enter into a Cell Phone Contract with the City, which must be active as long as a cell phone allowance is in place. [SEE APPENDIX 2: CELL PHONE ALLOWANCE CONTRACT]
- 5.7 Regardless of whether or not an employee receives a cell phone allowance, all City employees are allowed to use discounted plans for their personal plan from any provider offering these City employee discounts.
- 5.8 City of Spokane employees receiving a cell phone allowance are responsible for:
- Purchase of equipment
 - Payment of bills and charges, including cost for any cosmetic or other extras associated with the phone
 - Account set up
 - Notifying the City immediately if the monthly bill is less than the City allowance
 - Applicable taxes (allowance is taxable income, paid through payroll)
 - Retaining six (6) months of monthly billing records
 - Upon request by the City, providing recent billing statements reflecting all business related phone calls. Personal phone use may be redacted.
- 5.9 The use of cell phones, whether owned by the employee or the City creates a record of the number dialed or the number of the caller. When the cell phone is used for City business, that record is, in nearly every case, a public record, subject to possible disclosure under the Public Records Act. Similarly, any message relating to City business that is left on a cell phone, whether owned by the employee or the City, is, in nearly every case, a public record, subject to possible disclosure under the Public Records Act.

6.0 PROCEDURE

- 6.1 Determination of Cell Phone Eligibility
- 6.1.1 Eligibility is based on the need for frequent use of a cell phone, such as an employee who needs to be frequently available for emergency contact, and whose duties require him/her to be quickly

contacted, anywhere, anytime as determined by his/her supervisor and department/division head.

6.1.2 Employees leaving City employment must turn in city-owned cell phones to the MIS/Police/Fire department as part of their termination process. Employees transferring or promoting within the City must coordinate their prior cell phone hardware and account with MIS, and eligibility in the new department or position must be re-established.

6.2 Determination of Phone, Plan or Allowance

6.2.1 The cell phone model, plan attributes, and dollar amount of the cell phone allowance should cover the employee's projected business-related needs and expenses only. Basic equipment costs and the employee's cell phone use related to business should be considered. Costs for non-business-related cosmetic or technical extras and upgrades cannot be considered.

6.2.2 Departments are responsible for projecting business use to the best of their ability, and for communicating this estimate to the MIS Department. The MIS Department will be responsible for purchasing all City-owned cell phones and establishing plans with cell phone providers. Departments with special needs must identify such to MIS prior to purchase. MIS will utilize its expertise, and purchase the most cost effective option of phones and plans to meet the departments' business requirements. The MIS Department will establish a standard menu of phones and plans. The standards will represent the options that best meet the City's business needs at the lowest cost. The same needs analysis, standard hardware and plans, and most cost effective options will be utilized by the Police and Fire departments for their cell phone users. Employees requesting a phone or plan in excess of the standards must have written approval from the City Administrator.

6.3 Establishing a Cell Phone Allowance Contract

6.3.1 The allowance process is initiated by the employee by completing a Cell Phone Allowance Contract, and obtaining approval through the appropriate channels. The employee will attach to the form a copy of his/her cell phone contract or a current cell phone bill. The forms are to be submitted to the department/division head for eligibility and dollar allowance determination. Once approved, the department/division head will submit the forms to the Accounting Department to facilitate MIS and City Administrator approval. After final approval, the Payroll unit in the Accounting Department will set

up the monthly allowance plan. The allowance will be paid through the employee's normal payroll check on a monthly basis. [SEE APPENDIX 2: CELL PHONE ALLOWANCE CONTRACT]

6.3.2 When an employee moves from a City owned cell phone/plan to a personal plan with an allowance, the ownership of their City phone will transfer to the employee at no cost. If the employee purchases a new phone with his/her new personal plan, the employee must turn in his/her previous City phone to the MIS department.

6.4 Use of Cell Phone

6.4.1 Except for incidental personal use, City owned cell phones are to be used for business purposes only. Incidental personal use is defined as use that is infrequent and insubstantial. Incidental personal use phone calls are to be made at times that do not adversely affect the performance of official duties and are brief in duration and frequency. Whenever possible, incidental personal calls are to be made during breaks. Use of a City-owned cell phone for other than City business or personal incidental use will result in the entire cost of the phone and plan to be added to the employee's taxable wages as a taxable fringe benefit.

6.4.2 For employees receiving a cell phone allowance, the employee must retain an active cell phone contract with a wireless provider as long as a cell phone allowance is in place. If the employee is receiving a cell phone allowance based on data usage, his/her contract must provide for unlimited data use (or the maximum level of data plan offered). Because the cell phone is owned personally by the employee, and the allowance provided is taxable income, the employee may use the phone for both business and personal purposes, as needed. Personal use should be kept at a minimum during the employee's working hours. The employee may, at his or her own expense, add extra services or equipment features, as desired. Use of the device in any manner contrary to local, state, or federal laws will constitute misuse, and will result in immediate termination of the cell phone allowance. The City will not provide technical support for these personal cell phones, except for limited support for data communication with the City's network, for those authorized to have the ability to do so.

6.4.3 City employees operating a moving motor vehicle while holding a wireless communications device to his or her ear is guilty of a traffic infraction with exception of a City employee operating:

- a. an authorized emergency vehicle, or a tow truck responding to a disabled vehicle;

- b. a moving motor vehicle using a wireless communications device in hands-free mode;
- c. a moving motor vehicle using a hand-held wireless communication device to report illegal activity, summon medical or other emergency help, prevent injury to a person or property; or relay information that is time sensitive between a transit or for-hire operator and that operator's dispatcher, in which the device is permanently affixed to the vehicle; or
- d. a moving motor vehicle while using a hearing aid.

For purposes of this section, "hands-free mode" means the use of a wireless communications device with a speaker phone, headset, or earpiece.

6.4.4 City employees operating a moving motor vehicle who, by means of an electronic wireless communications device, sends, reads, or writes a text message, is guilty of a traffic infraction with exception of a City employee operating:

- a. an authorized emergency vehicle;
- b. a voice-operated global positioning or navigation system that is affixed to the vehicle and that allows the user to send or receive messages without diverting visual attention from the road or engaging the use of either hand; or
- c. a moving motor vehicle while using an electronic wireless communications device to report illegal activity, summon medical or other emergency help, prevent injury to a person or property, or relay information that is time sensitive between a transit or for-hire operator and that operator's dispatcher, in which the device is permanently affixed to the vehicle.

A person does not send, read or write a text message when he or she reads, selects, or enters a phone number or name into a wireless communications device for the purpose of making a phone call.

6.4.5 In many cases, cell phones operate as a camera or as a way to access the internet or email. Employees operating a city-owned cell phone in these capacities must comply with City of Spokane policy ADMIN 0620-06-56, "Internet Access," and City of Spokane policy ADMIN 0620-05-055, "Email."

6.5 Cell Phone Allowance Documentation and Review Requirements

6.5.1 A copy of the Cell Phone Allowance contract will be kept on file in the Accounting Department. Affected employees' monthly wireless provider billing records that establish business use are subject to audit at any time by the Accounting Department, Internal Audit, or external auditors engaged by the state or federal government. By November 30 of each year, individuals receiving a cell phone allowance will fill out the Cell Phone Allowance Contract and Annual Certification. The department/division head is responsible for an annual review of employee business-related wireless communication device use, to determine if existing cellular phone allowances should be continued as-is, changed, or discontinued, and to determine if any new allowances should be established.

6.5.2 On an annual basis, an evaluation will be made by the Accounting and MIS Departments to determine if existing allowance tiers are equitable with current market conditions. Allowance tiers may be adjusted upward or downward based on this evaluation.


7.0 RESPONSIBILITIES

The Accounting and MIS Departments shall administer this policy.

8.0 APPENDICES

Cell Phone Allowance Tiers
Cell Phone Allowance Contract / Annual Certification

APPROVED BY:




City Attorney (Asst)

10-23-10
Date



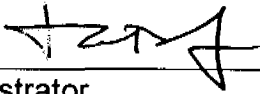
Director - Accounting

10/25/10
Date



Director - Management Information Services

11/1/10
Date



City Administrator

11-2-10
Date

CITY OF SPOKANE
Cell Phone Allowance Tiers

[Appendix 1]

| ALLOWANCE TIERS | DESCRIPTION | MONTHLY ALLOWANCE AMOUNT |
|-----------------|---------------------------|--------------------------|
| A | Business Use with Data | \$45.00 |
| B | Business Use without Data | \$22.00 |

These guidelines are general only, and are maximum reimbursements. Note, that all reimbursement levels must be substantiated, and a lower level of reimbursement may therefore be requested.

CITY OF SPOKANE

Cell Phone Allowance Contract and Annual Certification [Appendix 2]

(Please attach copy of current cell phone contract or bill)

NAME OF EMPLOYEE: _____

EMPLOYEE SS# or ID#: _____

DEPARTMENT: _____

MONTHLY ALLOWANCE AMOUNT: _____

Employee Certification and Signature:

I certify that I will use the funds requested toward the business use of my cell phone, and promptly report any changes in the level of those business expenses to my supervisor. I further certify that I have read, understood and intend to comply with City of Spokane Wireless Communication Devices (Cell Phones) Policy, ADMIN 0040-09-06.

Employee Signature **Date**

Department/Division Head Certification and Signature:

I certify that the requested allowance is needed for this employee to cover work-related expenditures due to cell phone communications, as described above. I further certify that I have read, understood and intend to comply with City of Spokane Wireless Communication Devices (Cell Phones) Policy, ADMIN 0040-09-06.

Department/Division Head Signature **Date**

- This contract is
- A new contract
 - Replaces an existing contract
 - Annual certification

| | |
|--------------------------------------|---------------------------|
| _____ MIS APPROVAL | PAYPERIOD EFFECTIVE _____ |
| _____ CITY ADMINISTRATOR APPROVAL | ENTERED BY _____ |