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## CELL PHONE USE IN THE WORKPLACE

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- I. **Purpose.** To establish a standard for the use of personal cell phones in the workplace, the personal use of City-issued cell phones, and the safe use of cell phones by employees while driving.
- II. **Background.** When job duties or business needs demand, the City may issue a business cell phone to an employee for work-related communications, or the City may issue a monthly stipend to an employee for the use of their personal cell phone for work-related communications.
- III. **Policy Statement.** It is City policy that cell phones shall be utilized for business purposes only and in a safe manner while employees are on paid City time.

- a) Personal Cell Phones

During paid work time (excluding paid and/or unpaid breaks), employees are expected to exercise the same discretion in using personal cell phones as is expected for the use of any City phones. Excessive personal calls or text messages during the workday, regardless of the phone used, can interfere with employee productivity and be distracting to others. A reasonable standard the City encourages is to limit personal calls and text messaging during work time to an average of no more than two or three short-duration calls or text messaging sessions per day as needed. Employees are expected to make personal calls and text on non-work time where possible and to ensure that friends and family members are aware of the City's policy. All employee communications using personal cell phone during work time must comply with all employee standards set forth in the City's Personnel Rules & Regulations. Flexibility will be provided in circumstances demanding immediate personal phone use.

The City will not be liable for the loss or damage of personal cellular phones brought to the workplace. The City does not expect and discourages employees utilizing their personal cell phone for conducting City business, unless the employee has elected to receive a monthly stipend for the use of their personal cell phone for work-related communications as provided in a memorandum of understanding, benefits and compensation plan, or individual employment agreement.

- b) Personal Use of City - Provided Cell Phones

Where job or business needs demand immediate access to an employee, the City may issue a City-owned and serviced cell phone to an employee for work-related communications. To protect the employee from incurring a tax liability for the personal use of this equipment, such phones are to be used for business reasons only. Phone logs will be audited by the user department to ensure no unauthorized use has occurred.

If an employee experiences a severe personal need to use the City's cellular phone significantly beyond the reasonable standard referenced above, they are required to report this use to the Finance Department within 48 hours. The employee may be asked to sign a form specifying the number(s) called and the reason for the call(s), as well as a specific authorization to deduct the cost of the call from his or her paycheck when the bill is received.

Employees in possession of City equipment such as cellular phones are expected to protect the equipment from loss, damage beyond normal wear and tear, or theft. Upon resignation or termination of employment, or at any time upon request, the employee shall produce the phone for return or inspection. Employees unable to present the phone in good working condition within the time period requested (for example, 24 hours) may be expected to bear the cost of a replacement. All employee communications using City provided cell phone during work time must comply with all employee standards set forth in the City's Personnel Rules & Regulations.

Employees who separate from employment with outstanding debts for equipment loss or unauthorized charges will be considered to have left employment on unsatisfactory terms and may be subject to legal action for recovery of the loss.

c) Safety Issues for Cellular Phone Use

Employees whose job responsibilities include regular or occasional driving, or as otherwise exempted per California Vehicle Code 23123 and 23123.5, are expected to refrain from using their phone while driving. Safety must come before all other concerns. Regardless of the circumstances, including slow or stopped traffic, employees are directed to pull off to the side of the road and safely stop the vehicle before text messaging or placing or accepting a call. If acceptance of a call is unavoidable and pulling over is not an option, employees are expected to use hands-free options, keep the call short, refrain from discussion of complicated or emotional

matters, and keep their eyes on the road.

Special care should be taken in situations where there is traffic, inclement weather or the employee is driving in an unfamiliar area.

Employees whose job responsibilities do not specifically include driving as an essential function, but who are issued a cell phone for business use, are also expected to abide by the provisions above. Under no circumstances are employees allowed to place themselves or others at risk to fulfill business needs.

Employees who are convicted of traffic violations resulting from the use of a cell phone while driving may be subject to disciplinary action and personal liability resulting from such traffic violations.

Violations of this policy will be subject to the highest forms of discipline, including dismissal.

d) Video or Audio Recording Devices

Staff are expected to use the camera for taking pictures and videos as part of their work (i.e. for project documentation, online photo/video/audio upload to City systems or cloud services, etc.). The use of camera or other video or audio recording is prohibited without the consent of the person(s) subject to recording except per Pinole Police Department policy concerning officers conducting investigations. Video and audio recording in restrooms and/or locker rooms is strictly prohibited.

e) City's Right to Access Information on City Provided Cell Phones

The City reserves the right to enter, search, monitor, copy and/or retrieve electronic files, voicemail, email, internet or any type of electronic file of any employee or elected official, without notice, for business purposes, including, but not limited to investigating theft, disclosure of confidential business or proprietary information, use of the system for personal reasons or for any other purpose unrelated to City business, or monitoring work flow or productivity on City provided phones.

Although City employees may have individual passwords or passcodes to cell phones, electronic media items such as e-mail, voice mail, and computer network systems, these items are accessible at all times by the City and may be subject to periodic unannounced examinations by the City. All passwords and passcodes must be given to the City upon request. The City reserves the right to override any password or passcode created by an employee.

Although the City reserves the right to access Electronic Media, employees are strictly prohibited from accessing another employee's personal file or voice mail or email messages without the latter's express permission. In addition, the voice mail, email and networks systems are not to be used in a way that may be disruptive, offensive to others, or harmful to morale.

Even though employees may have deleted information or files from any of the electronic media, it does not mean that the information or files are permanently deleted from the system.

Employees should be aware that any electronic media messages and information created or stored on City owned electronic media may constitute "public records" and may be subject to disclosure to the public under the California Public Record Act, Government Code§6250-6270, or otherwise discoverable (e.g., in response to a subpoena).

f) Special Responsibilities for Managerial Staff

As with any policy, management staff is expected to serve as role models for proper compliance with the provisions above and are encouraged to regularly remind employees of their responsibilities in complying with this policy.