

REPORT TO THE CITY COUNCIL

DATE: FEBRUARY 24, 2010

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER

BY: NATHAN HAMBURGER, ASSISTANT CITY MANAGER
CHRIS DODD, ADMINISTRATIVE ANALYST

SUBJECT: APPROVE RESOLUTION NO. 10-1573, AMENDING THE EMPLOYEE HANDBOOK CELL PHONE USAGE POLICY TO INCLUDE A TECHNOLOGY ALLOWANCE POLICY

In continuing efforts to find ways to reduce costs, staff time, and limit liability for the City, staff is proposing amending the current cellular use policy to include the ability to issue a technology allowance to designated employees.

It is recognized that cellular telephones and smartphone's are becoming more valuable to both the professional and personal user. They are also invaluable in the event of an emergency with the ability to connect individuals using a variety of methods (phone, email, text, pin, etc.) With increasing technology accessibility and advancements, more and more users are choosing to purchase smart phones for their personal use.

Amending this policy for designated employee's to receive cellular phone and/or data allowance allows the City the ability to use employee's personal cellular phones and/or smartphone's for professional applications with reduced cost to the City. Employees would have the flexibility to pick an individual plan for themselves to accomplish both professional and personal functions without the need to carry multiple devices.

Currently, the City spends in excess of \$85 per month for each smartphone user and more than \$45 per month for each cellular telephone user. There would be a monthly cost savings, with the significant cost savings coming from not having to replace damaged or obsolete equipment. Under the new policy, designated employees would be eligible for a cellular telephone allowance of \$45 per month and/or \$40 per month for data usage, with only certain staff positions eligible for both allowances as outlined in the policy. These figures are based on comparables from other Cities that have similar plans, as well as averages from the 5 major cellular phone and data providers.

By amending the policy, it would reduce contract administration time on a monthly basis and would eliminate liability to the City for separating out personal business from professional business to comply with Internal Revenue Code (IRC) regarding governmental employers cell phone usage policy.

Issuance of a cellular telephone and/or data allowance would be determined by the City Manager. If an allowance is offered, the employee may either elect to receive the allowance or use a City issued cellular phone within the provisions of the current policy. Employees who accept the allowance are required to be available via cellular telephone during normal business hours, as workload requires, per schedule, while on-call duty, in emergency situations, or as agreed upon with their supervisor. Employees are expected to maintain cellular phone and/or data service without interruption, present a copy of their bill once a quarter to the City, replace any damaged equipment at their own cost and inform the City within three days of any updates to their cellular number.

The policy addresses the following items:

1. The eligibility and assignment of cellular telephone and data plan allowances
2. Employee's who are eligible for cellular telephone and/or technology allowance
3. Policy establishing continuous service and providing statements to the City
4. Prohibiting use while operating a City-owned pool or privately-owned vehicle in the course of conducting business, unless operated using a hands-free device
5. What types of smartphones are compatible with the City's IT infrastructure

The City Attorney has reviewed the attached resolution and policy and approved them as to form.

RECOMMENDATION

Staff recommends the City Council approve Resolution No. 10-1573 amending the Employee Handbook to include a Technology Allowance Policy.

Attachment: Resolution No. 10-1573
Technology Allowance and Cell Phone Policy

RESOLUTION NO. 10-1573

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, AMENDING THE EMPLOYEE CELL PHONE USAGE POLICY TO INCLUDE A TECHNOLOGY ALLOWANCE AND CHANGING THE TITLE TO TECHNOLOGY ALLOWANCE AND CELL PHONE USAGE POLICY

WHEREAS, the City has amended the Cell Phone Usage Policy to include a technology allowance, attached hereto and by this reference incorporated herein; which addresses:

Section 1. Addition of a Technology Allowance to the Employee Cell Phone Usage Policy.

Section 2. Identifies who is considered eligible for a technology allowance.

Section 3. Identifies what is considered illegal or improper use of cell phones, including proper use of cell phones while operating a City-owned pool or privately owned vehicle in the course of conducting business, unless the cell phone is operated with a hands-free device.

Section 4. Changes the title of the policy to Technology Allowance and Cell Phone Usage Policy.

Section 5. The City Manager and/or his designee have the responsibility to quarterly audit employee cell phone records to ensure continuous service for those who are issued a technology allowance.

NOW, THEREFORE, the City Council of the City of Agoura Hills does hereby resolve to approve the attached Technology Allowance and Cell Phone Usage Policy, including the addition of a Technology Allowance, as part of the Amended Employee Handbook.

PASSED, APPROVED and ADOPTED this 24th day of February, 2010, by the following vote to wit:

AYES: (0)
NOES: (0)
ABSENT: (0)
ABSTAIN: (0)

Resolution No. 10-1573
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William D. Koehler, Mayor Pro Tem

ATTEST:

Kimberly M. Rodrigues, City Clerk



Technology Allowance and Cell Phone Usage Policy

SECTION 1 – TECHNOLOGY ALLOWANCE

I. PURPOSE

To provide guidelines and criteria regarding the approval and use of a monthly technology allowance.

II. POLICY

As the use of technology (cellular phones, internet, data access to email, etc) has become more commonplace within the work environment, certain employees are designated by their job duties and functions to be accessible via cellular phone, text or email and can be designated to receive a monthly allowance to compensate the employee for this requirement. The City is requiring employees who are issued technology allowance to adhere to the following:

- A. City-issued technology allowance will be issued as determined by need as directed by the City Manager or designee.
- B. Designated employees must maintain cellular phone service in order to remain eligible for the monthly allowance provided by the City. Designated employees shall provide documentation upon request to verify continued ownership and business use of a cellular phone in order to maintain their monthly allowance. Documentation must be submitted by employee once a quarter indicating cellular service is currently active.
- C. Designated employees and authorized persons are expected to be available via cellular telephone during normal business hours, as workload requires, per schedule, while on-call duty, in emergency situations, or as agreed upon with their supervisor.
- D. Designated employees receiving the allowance shall provide their cellular number and any subsequent changes to the number to human resources within three days of the change.
- E. Designated employees will be responsible for purchase, replacement, and/or repair of their cellular phone, accessories and equipment.

- F. Effective July 1, 2008, California SB 1613 requires that all motorists use a hands-free (Bluetooth) device when using mobile communications units while driving. If a designated employee is cited by law enforcement for use of a mobile communications device while driving, the repercussions of the ticket are the responsibility of that designated employee.
- G. Designated employees may upgrade their plan, equipment, or change wireless service at their own cost. However, eligibility for a data plan allowance requires that designated employees own a Smartphone/PDA cellular telephone that supports Microsoft Exchange Active Sync.
- H. Monthly allowance amounts for designated employees shall be determined by the City Manager and shall not exceed \$85 per month. Positions that are eligible for the full technology allowance (voice and data service) are as follows:
- City Manager
 - Assistant City Manager
 - Community Services Director
 - Assistant to the City Manager
 - City Engineer
 - Building Official
 - Public Works Project Manager
 - Administrative Analyst - Emergency Services, Cable, Facilities
 - Recreation Supervisor – Parks and Facilities, Special Events, Community Concert Band

Positions that are eligible for a cellular allowance (voice service only) are as follows:

- Director of Finance
 - City Clerk
 - Recreation Manager
 - Code Enforcement Officer
 - Parks and Landscape Supervisor
 - Recreation Supervisor – Transportation
- I. Payment of any cellular phone use in excess of the City-paid monthly allowance of \$45 per month shall be the personal responsibility of the user.
- J. Payment of any data use in excess of the City-paid monthly allowance of \$40 per month shall be the personal responsibility of the user.
- K. Employees shall not use cellular phones (both talking and texting) while operating a City-owned pool or privately-owned vehicle in the course of conducting City business. However, a cellular phone may be used for talking with a hands-free device when it is reasonably safe to do so.

- L. Technology allowance is considered a taxable income and shall be reflected as such on your income statement.

SECTION 2 – CELL PHONE USAGE POLICY

I. PURPOSE

To ensure compliance with Internal Revenue Code (IRC) regarding governmental employers who provide or issue cell phones to employees and to provide employees with additional information regarding cell phones and their use. Under the IRC, cell phones are considered “listed property” and as such, the employer is required to have a method to track and account for cell phone records that distinguish business and personal use.

II. POLICY

The City, in its effort to meet compliance with IRC, is requiring employees who are issued or provided with a cell phone to adhere to the following:

- A. City-issued cell phones will be issued as determined by need and as directed by the City Manager.
- B. The issuance of a City-owned phone is a privilege and should be treated as such during its usage.
- C. Should employees who are issued or provided a cell phone choose to use the cell phone for business purposes only, which means no personal use at all, then the employee will be asked to sign an agreement acknowledging that the employee understands the City policy and IRC regarding employer-issued cell phones. The employee also commits not to use the phone for personal use and acknowledges that the Finance Director, or his/her designee, will routinely audit cell phone bills to ensure there is no personal use.
- D. Should employee use the cell phone for ANY personal use, it is the EMPLOYEE’S responsibility to accurately track the usage and report it to the Finance Director prior to the payment of the monthly cell phone bills being processed. Employee agrees to pay \$0.65 for each usage minute, which covers the cost of usage, a portion of the monthly service fee, special fee costs, and administrative oversight costs. Should a special usage fee cost more than the above listed fee allocation, the employee will be solely responsible to immediately reimburse the City for that cost, plus the usage minute fee of \$0.65/minute. Due to the fact that the City has limited staff and resources, and the continual need to utilize these limited resources is caused by a use not on behalf of the City’s normal business activities, employees who continually have personal usage on a month-to-month basis will be restricted to business use only and will be required to follow the procedures described in Policy Item C.

- E. Should employee choose to use City-issued cell phone for business and personal use, the monthly service and any other usage fees will be calculated as income, reportable on the employee's W-2 form. This amount will be taxed at the appropriate rate specific to that employee's individual withholdings, reportable annual income, and the IRC.
- F. The City reserves the right to access, review and/or disclose any communications, data, stored information, or records related to any City-provided cell phone and its use. A supervisor may require that an employee surrender a City-provided phone at any time and may review any data or information stored on that device. Thus, employees do not have a reasonable expectation of privacy in their use of a City-provided cell phone. Cell phone records and stored information could be subject to disclosure under the Public Records Act.
- G. Cell phones shall not be used for improper or illegal purposes, such as harassing, discriminatory, and defamatory use.
- H. The City's Finance Director and/or his/her designee are hereby designated with the duty and responsibility to routinely audit the cell phone records, monitor use, or access information, to ensure compliance with City policies, the IRC, investigate misconduct, and/or locate needed information or diagnose technical problems.
- I. Employees shall not use cellular phones (both talking and texting) while operating a City-owned pool or privately-owned vehicle in the course of conducting City business. However, a cellular phone may be used for talking with a hands-free device when it is reasonably safe to do so.

III. ACKNOWLEDGEMENT

Upon receipt of this policy, each employee shall sign a form acknowledging that he/she is aware of this policy regarding the technology allowance.

**City of Agoura Hills Technology Allowance and Cell Phone Usage Policy
Acknowledgement**

By my signature below, I acknowledge that I have received, read, understand, and will adhere to the Technology Allowance and Cell Phone Usage Policy. I understand that I do not have a reasonable expectation of privacy in work-related communications or communications using City resources. I agree to cooperate with the City as necessary to provide access to messages and communications that must be disclosed under the California Records Act or in discovery for legal proceedings (if any).

Signature

Date

Print Name

Cellular Phone Number