



# City of Topeka Policy

## Cellular Telephone

### CELLULAR TELEPHONE POLICY AND PROCEDURE

**Purpose:** To outline the authorized payment of certain allowances for personally-owned cellular telephone equipment and service plans; and the usage, liabilities and procedures while using city-owned and leased cellular telephone equipment issued to employees.

**Applicability:** To all city employees.

**Effective Date:** January 1, 2009

**Policy:** It is the policy of the City of Topeka to provide its departments, divisions and offices with prudent and efficient means to serve the residents of the City, including the ability to provide the City of Topeka's employees with authorized allowances or communication equipment or resources under circumstances where those payments or resources benefit the City of Topeka and are consistent with best governmental business practices.

To that end, with the approval of this Policy and supporting procedures, it is the policy of the City of Topeka to authorize the following types of allowance, equipment and/or services:

- The use and/or payment of an allowance for portable communication devices or services;
- The assignment and use of city-issued portable communication devices.

The City Manager is authorized to adopt procedures for requesting, granting and managing the payment of allowances and the provision of equipment or other resources authorized under this policy, and such procedures shall contain specific criteria to ensure that the payments or provisions are provided for business necessity and governmental business effectiveness.

It is further the policy of the City of Topeka that the books, records and accounts be kept and managed in a manner that fully complies with proper governmental accounting practices and all applicable state and federal laws, including tax regulations. The allowances, payments and provisions of equipment or services authorized under this policy shall be classified, when legally required as taxable employee fringe benefits and shall be managed in accordance with federal and state tax law.



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### 1. **DEFINITIONS:**

- A. Additional Fees means fees in excess of the Base Amount, which are charged to the City for cellular phone use.
- B. Administrator means the person designated to administer the Call Plan, activate and deactivate cellular phones, and handle the responsibilities of paying the Service Provider, monitoring bills for Additional Fees and extraordinary charges, performing audits on "no personal use" phones, verifying that cellular phone numbers for allowance phones are active and inform Department Directors and employees of policy violations and provide documentation.
- C. Allowance means the set dollar amount through payroll which an employee receives for the business use of a personal cellular phone.
- D. Base Amount means the amount that is the sum of the negotiated fees for line-access, additional features, and non-chargeable minutes, together with applicable taxes, billed to the City of Topeka on a monthly basis. The Base Amount does not include any charges for calls outside the Calling Area, directory assistance fees, operator assistance fees, or use which exceeds the negotiated, non-chargeable minutes for cellular phones under the terms of the Call Plan.
- E. Business Use means use of city-owned equipment and use of services paid for by the City of Topeka for city business and in a manner consistent with the adopted policies and practices of the city, as well as any applicable city ordinance or Kansas statute and IRS regulations.
- F. Calling Area means the geographic area designated by the Service Provider within which cellular phone calls can be placed and received without incurring Additional Fees.
- G. Call Plan means the negotiated contract between the City of Topeka and the Service Provider, which sets forth the parameters of cellular Phone use, including a monthly line-access fee, additional features such as voice mail and caller identification, the Calling Area, charges for calls outside the Calling Area, the number of non-chargeable (free) minutes for the Cellular Phones, equipment types and costs, all billing terms, etceteras, as that contract may be amended or replaced according to then applicable City of Topeka processes for contractual agreements.
- H. Cell Phone or Cellular Phone means any wireless telecommunications device, which is owned or leased by the City for use by its employees.
- I. City means the City of Topeka, Kansas.
- J. City Manager means the person hired to serve in that capacity and any successors or assigns.
- K. Department Director means the person appointed by the City Manager to serve as the director/executive for a designated department of the City, or such person's designee.



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- L. Emergency is when extreme, extenuating circumstances arise which may threaten the health or welfare of the employee's immediate family or property. Calls out to 911 also qualify.
- M. Employee means any person engaged by the City to perform work, whether on a temporary, continuing, part-time, or full-time basis, and who is receiving wages or a salary from the City as compensation for such work.
- N. Portable Communication Device includes but is not limited to, cellular and/or mobile telephones and related equipment, multi-function data and voice devices such as blackberry devices and the like, push to talk cellular and mobile handsets, and other wireless cellular or mobile voice or data communication devices. For the purpose of this policy, the term portable communication device does not include limited function pagers, laptop or tablet computers, or personal digital assistants (PDA's), which are not equipped with a cellular, mobile or city provided air card.
- O. Request means the *Request for Portable Communications Device Form*, which is referred to as *Exhibit I* or *Request for Cellular Allowance Authorization Form*, which is referred to as *Exhibit IV* or *Request for Cellular Accessories Form*, which is referred to as *Exhibit III*. These forms may be amended and updated from time to time.
- P. Service Provider means the City-selected provider of cellular phone service, and any successors or assigns.
- Q. Standard Operating Procedure means the written document or documents, as approved by the Department Director, which set forth the procedures acceptable to carry out the Employee's job responsibilities.
- R. Use Agreement means the Employee Agreement for Use of a Wireless Telecommunications Device Form, referred to as *Exhibit II*, as it may be amended and updated from time to time.

## 2. **PROCEDURES:**

This procedure establishes the guidelines to provide, review and modify cellular phone allowances paid by the City as well as guidelines on City-issued communication devices.

This procedure is established to ensure that cellular phones, Portable Communication Devices and the related equipment, services and allowances are acquired and used in the best interest of the City of Topeka, is appropriate to the needs of the organization, and is in accordance with the City's policies, procedures, ethics and values.

**Department Directors** - City Department Directors are responsible for selecting the most appropriate option for the provision of Cellular phones and Portable Communication devices and services to employees under their supervision, subject to the review of the City Manager as described in this policy/procedure. Department Directors shall determine which, if any, of their employees possess a business need for a cellular phone or Portable Communication Device on the basis of the duties and responsibilities of employees' positions as described in this policy/procedure. In addition, department and division directors are responsible for ensuring that



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employees under their supervision fully comply with the provisions of this policy/procedure, use devices in a manner consistent with City policies and procedures, and use devices only as directed.

**Demonstrated Business Need** - City departments and divisions should limit the use of cellular phones, portable communication devices, services and allowances to those employees who have a demonstrated business need to have them. Other communication means such as land-line phones, network access, email, etc. should be used instead of portable communication devices whenever possible. The following criteria should be used to determine whether an employee is eligible for either a city-issued portable communication device or an allowance.

- **Reachable immediately:** The employee's job duties and responsibilities are such that it is important that the organization be able to reach them and/or transmit data immediately, and the employee cannot be reached through more economical means.
- **On-call:** The employee is required to be on-call outside of normal business hours, and the employee cannot be reached through more economical means.
- **Non-Fixed location:** The employee's job duties and responsibilities are such that they are not working at a fixed location the majority of the time, and the employee cannot be reached through more economical means.
- **Travel:** The employee's job duties and responsibilities are such that they make frequent and/or prolonged travel outside of the City of Topeka metro area and need to remain in contact with their office or employees.
- **Safety:** The employee's job duties and responsibilities are such that they need a portable communication device for their safety or the safety of their clients, customers, or constituents.

**Portable Communication Device Options** - Two options are available to departments for their employees that have demonstrated a business need for cellular phone use. Departments should choose the option that makes the most business sense and is in the best interest of the City of Topeka.

Option A - **Allowances:** An employee receives a set allowance through payroll for the business use of a personal cellular phone.

Option B - **City-issued Phones:** An employee is issued a city-owned cellular phone and the City pays for the monthly service.

**Tax Consequences** - Employees may wish to consult a personal tax advisor to determine what, if any, tax deductions they may make for the business use of their personal cellular phones. The City will comply with all applicable state and federal laws and regulations, including but not limited to Internal Revenue Code, with regard to the taxation and usage of portable communication devices. Personal use of city-issued portable communication devices is considered a taxable fringe benefit pursuant to federal and state law. In order to prevent tax consequences to the City on city-issued portable communication devices, **NO PERSONAL USE IS ALLOWED.**



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### 3. INTRODUCTIONS:

The purpose of the Cellular Telephone Policy are the following:

- To explain the procedures for obtaining, using, and returning a cellular phone.
- To insure appropriate use and safekeeping of city-owned and leased equipment.
- To insure appropriate use of equipment and services paid for by the City, so that public funds are spent only for public purposes.
- To disclose potential financial liability to City Employees.
- To address safety issues for City employees.

Employees obtaining a City-issued phone must abide by a strict "**no personal use**" policy.

### 4. CITY ISSUED CELLULAR TELEPHONES:

#### Obtaining a City Issued Cellular Telephone:

- a) The Contracts & Procurement Division ("Purchasing") of the City's Administrative & Financial Services Department, in cooperation and consultation with the City's Information Technology Department ("IT"), will centrally negotiate a Service Provider and a Call Plan for all City-Issued Cell Phones. Once a Service Provider has been selected, the designated Administrator will act as a liaison among IT, the Service Provider, and City Department Directors, or their designees.
- b) A completed Request for each cellular phone to be placed, or continued, in use will be submitted to the Administrator, who will arrange with the Service Provider for the activation or extension of the cellular phone issued to the Employee.
- c) At the time a cellular phone is issued to an Employee, the Employee will be required to sign a User Agreement, a copy of which shall be returned to the Administrator. The Employee shall receive a copy of the Cellular Telephone Policy at the time the User Agreement is signed.
- d) Prior to issuing a Cellular Telephone to an Employee, it shall be the responsibility of that Employee's Department Director to advise the Employee in the appropriate use of the cellular phone. Such advice shall include not only the policies herein, but also basic information about the specific parameters of the Call Plan, including:
  - 1) The number of non-chargeable minutes estimated to be used monthly for the Cell Phone issued to the Employee.



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- 2) The Calling Area applicable to the Employee's cellular phone.
- 3) What constitutes "use" of non-chargeable minutes, *e.g.*, incoming calls; mobile-to-mobile calls, if applicable; calls to directory assistance; out-going calls, whether within the Calling Area or not.
- 4) What types of calls and services will result in Additional Fees.
- 5) What features are available in the Base Plan, *e.g.*, voice mail, programmable directory, etc.
- 6) How to operate the cellular phone, including establishing a password to retrieve voice mail.
- 7) Shall inform the employee of what constitutes "personal use" under this policy. They shall also clarify the meaning of emergency use as defined in this policy.

The Department Director shall agree that the monthly charges associated with each cellular phone will be paid from the department's budget.

### **Cellular Phone Use:**

- Cellular phones are for Business Use. They should not be used for non-work related communications, except in emergencies, as defined in this policy.
- Cellular phones should not be used, even for a Business Purpose, when a less costly communication alternative is safe, convenient, and readily available.
- Employees in possession of a cellular phone are required to take appropriate precautions to safeguard the cellular phone from damage, loss, unauthorized use, and theft.
- Cellular phone calls outside the Calling Area are prohibited, unless authorized by the Employee's Department Director, or in an emergency situation as defined in this policy.
- Cellular phones are not secure devices and can be easily monitored; consequently, confidential information should not be discussed over a cellular phone.
- Employees should use appropriate communications etiquette with cellular phones, including setting cellular phones to be silent when the Employee is in a situation where audible use would disrupt business.



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- In no instance will it be deemed acceptable for an Employee to use a cellular phone to make harassing, threatening, or intimidating calls, personal or otherwise.

### **Personal Use Of A City-Issued Cellular Phone:**

Personal Use of a City-Issued cellular phone is strictly prohibited, except in emergencies as defined in this policy.

### **Return of a City-Issued Cellular Phone:**

- Upon an Employee's separation from service, whether voluntary or involuntary, the city issued cellular phone will be returned to the Administrator, in good and working condition, reasonable wear and tear expected. The employee's Department Director shall notify the Administrator of the employee's separation from service, within five (5) business days of learning of the employee's intention to separate.
- The Department Directors may require the return of a City- issued cellular phone from any employee who the Department Director determines no longer needs the cellular phone for business use. It shall be incumbent on the Department Director to notify the Administrator within five (5) business days of such decisions.
- An employee may return a City-issued cellular phone that is no longer in working order to the Department Director, with a request for a replacement or repair of a city issued cellular phone. It shall be incumbent upon the Department Director to notify the Administrator within five (5) business days of receiving such request. The Department Director shall complete and sign the "Request for Cellular Maintenance, Repair or Replacement" form.
- Upon return of a City-issued cellular phone, the Administrator shall note on the request form that the employee returned the City- issued cellular phone, and the Administrator shall specify on the Request form whether the City- issued cellular phone is in good and working condition, reasonable wear and tear expected.

### **5. ALLOWANCES:**

- All allowances must be approved by the Department Director or his/her designee. The employee must provide the cellular phone number to the Department and/or Division Director, who will provide the number to the Administrator. Departments must submit a *Cellular Allowance Authorization Form* to Financial Services-Payroll for processing.



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- The cellular phone and related equipment will be obtained by, paid for, and owned by the employee. The account and service will be registered in the name of the employee or spouse and billed to the employee at their home address. The employee is responsible for the entire cost of the service. The City will not reimburse employees receiving allowances for the costs of purchasing or replacing portable communication devices unless the employee can show the damage resulted from neglect of a fellow city employee or was directly due to the employee's job duties and it was unavoidable.
- Each year, Financial Services will provide the Department Director with a status report of all their cellular phone allowances and City-issued phones. Departments are responsible for an annual review of employee business-related cellular phone use to determine if existing cellular phone allowances should be continued as is, changed, or discontinued. This evaluation will be submitted to Financial Services. It is at this time, when the employees may shift with permission of the Department Director from allowance to City-issued phone or vice versus.
- The allowance will be included in the employee's wages and is subject to all statutory deductions (*e.g.* federal and state taxes). Allowances will not constitute an increase to base pay, or other items that are factored on base pay. The allowance is for the current month's service (*i.e.* an allowance paid on a biweekly paycheck is for the service during the same biweekly period).
- Allowance tiers. Allowances may be provided to an employee upon the approval of the Department Director based upon the employee's business use as described in the tiers below. For the initial implementation Financial Services will review the employee's use during the previous consecutive 3 months and make a recommendation to the Department Director which tier the employee should fall into, for his final approval. All new employees to the program will be assigned to the basic usage tier unless directed differently by the Department Director. However if an employee believes their allowance should be increased, an employee can provide their Department Director with copies of 3 consecutive monthly phone bills showing minutes used for business purposes. It is highly suggested that the employee blacken out all personal use phone numbers prior to submitting their bill to the City for review. If the Department Director agrees to an increase, the paperwork will be sent over to Financial Services stating the change.
- Allowances will be available in the following monthly allowance tiers:
  1. **Minimal Usage** - \$15 monthly allowance. Employees in this tier are considered to use a cellular phone less than 50 minutes monthly.



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2. **Basic Usage** - \$30 monthly allowance. Employees in this tier are considered to require basic usage of a cellular phone in that the cellular phone is used primarily to contact the employee when out of the office, in an on-call situation, in an emergency, or attending to City business at locations other than their primary place of work. This level shall be considered for device use of 50 to 250 minutes or less per month.
3. **High Usage** - \$45 monthly allowance. Employees in this tier generally would spend a great deal of work time out of the office and in the field and do not have easy access to a land-line phone in order to remain in contact with their place of business or with the clients, customers, or constituents they serve. This level shall be considered for device use of 251 minutes to 1,000 minutes per month.
4. **Extensive Usage** - \$60 monthly allowance. Employees in this tier, by the nature of their job responsibilities, are required to extensively use cellular communications in the course of their duties. This level shall be considered for device use of 1,000 minutes or more per month. This is the amount that will be allowed for blackberries with data packages.
5. **Special Approval** – The dollar amount of the monthly allowance is different than the amounts listed above. Employees in this tier must receive approval of the allowance amount from their Department and Division Leader and the City Manager or his/her designee.

The monthly allowance will continue until the Department discontinues the allowance due to business need or compliance with this policy, the employee decides to discontinue receiving the allowance, the employee transfers to another Department, or the employee terminates employment with the City.

### 6. **SAFETY GUIDELINES:**

- Employees are expected to use the cellular phone to report emergency situations, whether personal or business.

THIS POLICY SPECIFICALLY REPEALS AND REPLACES PRIOR CITY POLICIES AND ADMINISTRATIVE MEMORANDA RELATIVE TO CELLULAR PHONES AND OTHER PORTABLE COMMUNICATION DEVICES.



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VIOLATION OF THIS POLICY MAY RESULT IN PROGRESSIVE DISCIPLINE WHICH MAY INCLUDE BUT NOT LIMITED TO TERMINATION.

Approved:

/s/ Norton Bonaparte Jr.  
Norton N. Bonaparte Jr. City Manager  
December 10, 2008