

ADMINISTRATIVE MANUAL  
TOWN OF LOS GATOS

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Subject: Use of Cellular Phones                      Page:    Page 1 of                      Section Number:

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Approved:                       Effective Date:    2/1/08                      Revised Date:

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**PURPOSE**

The purpose of this administrative rule is to provide clear guidelines for the use and maintenance of Town issued cellular phones and for the use of personal cellular phones for Town business.

**DEFINITIONS**

The terms *cellular device*, *cellular phone*, *cell phone*, *smartphone*, and *pda* are used synonymously in this document to refer to any type of wireless communication device, with the exception of radio communication devices used by personnel in the Town Police and Parks and Public Works Departments.

**SCOPE**

This policy applies to the use of Town issued cellular phones and the use of personal cellular phones for Town related business. The use of radio communication devices used by personnel in the Town Police and Parks and Public Works Departments are excluded from this policy.

**POLICY**

**1.0    SAFETY**

- 1.1**    Effective July 1, 2008, California legislation prohibits drivers from using a wireless telephone while operating a motor vehicle unless the driver uses a hands-free device. Drivers who violate the law will face a base fine of \$20 for a first offense and \$50 for each subsequent offense. The law allows drivers to use a cellular phone without a hands-free device for emergency purposes, which includes placing a call to an emergency services agency or entity or while operating an authorized emergency vehicle, such as a police patrol car.

Employees are discouraged from using cellular phones while driving. Employees are responsible for using extreme caution if they decide to use these devices while driving.

Effective immediately, other than those emergency exceptions discussed in this section 1.1, employees operating any motor vehicle for Town business are prohibited from using cellular phones without also using a hands-free device. Employees using Town issued cell phones will be provided with a hands-free device if necessary to use a cell phone while driving. Employees using their own cell phones will be responsible for obtaining their own hands-free device.

## 2.0 PLAN TYPES

2.1 The Town provides for a two tier cellular phone user system.

2.1.1 **Town issued Cellular Phones:** The Town contracts with a service provider for a pool of minutes to be accessed by users using Town issued Cellular phones. Only voice plans are available in this plan. Generally, users in this group are low volume users.

2.1.2 **Stipend Eligible Users:** The Town issues monthly stipends to eligible employees who in turn provide their own cellular phones for use for Town business. Voice or voice/data plans are available for this group. Generally, users in this group are high volume users.

2.1.3 **Plan Eligibility:** Each department director has the responsibility of determining who should be issued a Town cellular phone and who should be part of voice or voice/data stipend. The following criterion are to be considered:

- a. Departmental requirements indicate having a cell phone is an integral part of performing the duties in the job description.
- b. More than 50% of work is conducted in the field.
- c. Required to be on-call outside of normal work hours.
- d. Critical decision maker.
- e. Quantity of calls / minutes likely to be used.
- f. Need for access and frequent updates to calendar, email, contacts, SMS, and files while not in the office.

## 3.0 TOWN ISSUED CELLULAR PHONES

3.1 The Town recognizes that employees using the pooled-minutes program paid for by the Town will, on occasion, need to make or receive personal telephone calls. If a personal call is necessary, employees will observe the following:

- a. The duration of personal calls must be kept to a minimum.
- a. Employees shall reimburse the Town (Finance Department) for the cost of all personal calls.
- b. Reimbursements will be computed as a percentage (applied to the bill amount) of the total number of calls for each billing cycle.

c. The following shall be regarded as personal costs and should be reimbursed to the Town:

- i. Directory Assistance in excess of two (2) calls per billing cycle
- ii. Usage charges that include Ring-tones or any non business related charges.

**3.2** Billing: The Finance Department and individual departments will audit bills to monitor usage on all Town issued cell phones accessing pool minutes. Employees shall reimburse the Town the appropriate amount per Section 3.2 of this policy within 10 business days of receiving copy of bill from Finance. Each department is responsible for ensuring its employees reimburse Town per Section 3.2 of this policy. Employees who fail to make the proper reimbursement, after being notified of the need to reimburse the Town, may be subject to disciplinary action up to and including termination.

**3.3** Employees and departmental personnel shall use an employee's office or desktop phone number for everyday business use, when available. Cell phone numbers should be provided to the general public only when an exception is justified. Employees shall use desktop telephones, rather than cellular phones, to access their Town voice mailbox whenever possible. Calls to "user-pay" phone numbers (e.g. 900, 976) are prohibited unless absolutely necessary for purposes of contacting vendor company "help lines," or as required in the course and scope of job assignment.

**3.4** Maintenance and Support: Care of each Town issued cellular phone is the responsibility of the employee to whom the phone is issued. If a cellular phone is damaged or fails to work properly, the employee will notify their department director or his/her designee immediately to arrange for repair.

**3.5** Security of each Town issued cellular phone is the responsibility of each user. This includes deterring theft by proper storage when not in use and being careful when on remote job sites, etc. In the event the phone is stolen or missing, the user must contact his/her supervisor immediately so that the number can be deactivated and the account credited for unauthorized calls. Stolen equipment must also be reported to the Police Department and an incident report must be completed. Security of each Town issued cellular phone also includes safeguarding the telephone from unauthorized use and the telephone number from unauthorized duplication. Each Town issued cellular phone should be programmed with whatever fraud protection feature the carrier offers. In the event the number has experienced unauthorized or fraudulent use, the user will fully cooperate with the cellular company in tracking and tracing the source of the calls and remedying the situation. Use of Town issued cell phones is limited to Town employees only.

- 3.6 Each Town department shall compile and up-date a log of Town-owned cell phones issued to employees and submit a copy to the administrator of the cell phone program on a quarterly basis. Logs shall be kept for the duration of the phone account with the Town. Whenever possession of a Town issued cell phone is transferred (for example, at issuance or before or after repair), the log shall be updated. Employees shall return Town-owned phone and all Town-purchased accessories to the department head upon termination or reassignment.
- 3.7 Emergency Requirements: During any emergency, the Emergency Operations Center Director, or his/her designee, will have the authority to reassign any and all Town issued telephone, cellular, and other telecommunications equipment for emergency response purposes.
- 3.8 Violations of this policy may result in disciplinary action up to and including termination.

**4.0 STIPENDS FOR USE OF PERSONAL CELLULAR PHONES FOR TOWN BUSINESS**

In lieu of Town issued cell phones, employees may be paid a stipend for use of their personal cell phones for Town business. To account for different needs and features, different stipends for voice or voice/data will be set and reviewed periodically.

- 4.1 Only members of the Executive Team and employees identified by their Department Director, based on job type and the Town's needs, will be eligible for the voice, data or voice/data stipend.
- 4.2 Stipends will be paid on a monthly basis through payroll system.
- 4.3 Employees who receive a cell phone stipend must provide the Town a cell phone number where the employee can be reached.
- 4.4 The Town will provide limited, low-priority technical support for phones and smartphones/pda's as time is available. Users are encouraged to call the technical support line for the wireless provider or 3rd party application to resolve problems, and to take responsibility for training, maintenance and updates. The Town encourages users to acquire models on the "Recommended Smartphone List" (available from the MIS Manager) and to use the Town's wireless service provider. This enables more efficient support, causes inter-staff cell calls to not be charged against pooled minutes, and maximizes access to Town communication systems (email, calendar, and contacts). For these reasons, employees choosing to use a wireless service provider other than the one used by the Town, are only eligible for the voice stipend.

- 4.5 All stipends are considered by the Internal Revenue Services as income and will be reported on the employee's W-2 at each calendar year end.
- 4.6 Failure to carry the designated cell phone or respond to calls may lead to revocation of cell phone stipend.
- 4.7 Employees receiving stipends must provide cell phones at their own expense.

APPROVED AS TO FORM:



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Town Attorney