

CITY OF SPOKANE
ADMINISTRATIVE POLICY

ADMIN 5600-17-06
LGL 2009-0022
(Replaces ADMIN 040-10-06)

**TITLE: CITY- AND PERSONALLY-OWNED COMMUNICATION DEVICES
(INCLUDING CELL PHONES) AND CITY- AND PERSONALLY-OWNED EMAIL
AND SOCIAL MEDIA ACCOUNTS**

EFFECTIVE DATE: June 10, 2009

REVISION EFFECTIVE DATE: November 30, 2017

1.0 GENERAL

1.1 The purpose of this policy is to provide guidelines regarding City- and personally-owned communication devices and accounts, including computers, cell phones, tablets, City-issued hard-wired desk phones, and City- and personally-owned email and social media accounts. This policy enables the City of Spokane to meet its fiduciary and open-government responsibilities to the taxpayers. It is recognized that the day-to-day operations of the workforce require voice and data communications and there is sometimes an apparent need to communicate when access to a City-owned communication device or email account is unavailable. Communication devices are a valuable resource for certain personnel in order to conduct City business in an effective and timely manner. At the same time, preservation, efficient organization, and ready accessibility of records generated by City employees, volunteers and elected officials in the course of their duties is a compelling governmental need. Consequently except in exceptional circumstances detailed in this Policy, personally-owned communication devices, and/or email and social media accounts, should not be used for work-related communications or postings.

Employees who fail to comply with this policy may be subject to disciplinary action, up to and including dismissal.

1.2 TABLE OF CONTENTS

- 1.0 GENERAL
- 2.0 DEPARTMENTS/DIVISIONS AFFECTED
- 3.0 REFERENCES
- 4.0 DEFINITIONS
- 5.0 POLICY
- 6.0 PROCEDURE
- 7.0 RESPONSIBILITIES

2.0 DEPARTMENTS/DIVISIONS AFFECTED

This policy shall apply to all City divisions, departments, employees, and elected officials, with the exception of members of the Local 29 bargaining unit.

3.0 REFERENCES

Chapter 42.56 RCW – Public Records Act
RCW 46.61.667 – Wireless Communications Device or Handheld Mobile Telephone
RCW 46.61.668 – Text Messaging While Driving
Chapter RCW 40.14 – Preservation and Destruction of Public Records
Chapter 434-615 WAC – Custody of Public Records
ADMIN 5300-13-05 IT Equipment
ADMIN 0620-05-054 Telephone Usage
ADMIN 0620-05-055 Email

4.0 DEFINITIONS

- 4.1 "Communication Device" is any device that is used, by any measure, to send or receive voice or data transmissions, whether wired or not, and includes but is not limited to landline and cell telephones, pagers, computers (desktops and portable laptops), portable tablets, and similar devices with communication capability. For purposes of this Policy, "Communication Device" does not include the City's two-way radio devices.
- 4.2 "City-Owned Wireless Communication Device" (or "City-Owned WCD") is a cell telephone, portable tablet, or portable computer, owned by the City and issued to a City employee or elected official.
- 4.3 "Desk Phone" is a landline telephone provided by the City for employee use. This device will electronically record voicemails from callers to the phone, which voicemails are saved to the City's computerized media storage system.
- 4.4 "Public Record" is 1) any writing; 2) that contains information relating to the conduct of government or the performance of any governmental or proprietary function; and 3) that is prepared, owned, used or retained by the City regardless of physical form or characteristics.
- 4.5 "Transitory Records" are public records that only document information of temporary, short-term value, and the records are: 1) not needed as evidence of a business transaction; and 2) not covered by a more specific record series. Transitory records are retained until they are no longer needed for City business and then they may be destroyed, except a transitory record must be preserved if a Public Records Act request calling for disclosure of the record is pending.
- 4.6 "Non-Transitory Records" are all public records that are not transitory records.

5.0 POLICY

It is the intention of the City to strictly curtail and limit the number of City-Owned WCDs with internet and/or data capability. When internet or data capability is warranted, the City will issue a WCD with that capability.

- 5.1 Employees who receive a City-Owned WCD must acknowledge in writing that no privacy interests exist in the device provided. This includes but is not limited to any and all voicemails, text messages, emails, call history, social media postings, and internet activity and downloads. The City has the right to inspect City-Owned WCD at any time without notice. A loaner WCD may be provided during the inspection period. Upon being notified that an employee's City-Owned WCD must be searched pursuant to a public records request, the employee/official will take steps to assure that records on the device are not destroyed and will promptly make arrangements with the Innovation and Technology Services Division (ITSD) or TARU to have that device searched for responsive records.

Employees in possession of a City-Owned WCD will sign an Employee Acknowledgment [Appendix 1] affirming that this Policy has been read by the Employee, and the Employee agrees to comply with it as a condition of receiving the City-Owned WCD.

- 5.2 The determination of which WCD and plan is appropriate for each employee to receive will be made by the ITSD, except for Police and Fire department employees, whose WCD 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 communication 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 ITSD/Police/Fire to procure the most cost effective alternative of City-Owned WCD 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.
- 5.3 The use of a communication device, whether owned by the employee or the City, creates a record of the number dialed or the number of the caller. When the device 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 communication relating to City business that is preserved or saved on a communication device or in an email or social media account, whether owned by the employee, elected official, or the City, is, in nearly every case, a public record, subject to possible disclosure under the Public Records Act.

5.4 Personally-Owned Communication Devices and Email and Social Media Accounts

This section of this Policy applies to all City employees', volunteers', and elected officials' usage of their personally-owned electronic communication devices and email and social accounts for work-related purposes.

Without limitation, these include the following devices and/or accounts and types of communications:

Types of Devices/Accounts:

Personally-owned:

- Computers (desktop and portable)
- Cellular telephones and pagers
- Portable "Tablets"
- Email accounts (e.g., @gmail.com, @hotmail.com, @comcast.net, etc., accounts)
- Social media accounts (e.g., Facebook, Instagram, Twitter, etc., accounts)

Types of Communications Sent/Received via Personally-Owned Devices/Accounts:

- Emails
- Voice telephone conversations
- Voicemails
- Text messages and text-like messages (traditional text and SMX messages, and "text-like" messages, such as those sent/received via apps like WhatsApp, GroupMe, Facebook Instant Messaging, etc.)
- Postings to personally-owned social media accounts

This Policy does not apply to communications using the City's two-way radio devices.

It is the policy of the City of Spokane that all work-related written communications (including without limitation email, text and text-like messages, social media postings, etc.) and all work-related verbal communications that do not occur in person (including without limitation voice telephone conversations and voicemails), be sent, received, or posted, using only City-owned/issued communication devices and email and social media accounts. A City employee, volunteer or elected official shall therefore use his or her personally-owned communication devices, and email and social media accounts, for personal purposes and not for work purposes.

Exceptions:

If necessary or in circumstances beyond the control of the City representative, a City employee, volunteer or elected official may use his

or her personally-owned communication device to make a work-related communication, in the following two circumstances only:

- a) To place a work-related phone call using his/her personally-owned cell or landline telephone, but if leaving a voice mail upon doing so, s/he may leave a voice mail only if that voice mail is saved to the City's computerized media storage system.
- b) To send/receive an email using his/her personally-owned device, if the email account s/he uses is her/City-issued email account and the email is therefore saved to the City's computerized media storage system.
- c) In attempts to prevent or respond to an emergency threatening imminent injury to person or property, and use of a City-owned/issued communication device is not reasonably available; provided that in each such case, the employee or elected official doing so shall assure an exact duplicate of the communication is copied without unreasonable delay to the City's computerized media storage system, in the appropriate location given the type and/or content of the communication.

If, beyond his or her reasonable control, a City employee, volunteer or elected official receives a work-related email, voicemail, text or text-like message, via his or her personally-owned communication device or email account, s/he shall take such steps as are reasonably necessary and without unreasonable delay, to assure an exact duplicate of the communication is copied to the City's computerized media storage system, in the appropriate location given the type and/or content of the communication. Once the employee, volunteer or elected official assures this duplicate has been saved, the employee/official shall delete the communication from his/her personally-owned device or account.

Upon request by the City's Public Records Officer, City employees, volunteers and elected officials shall provide a declaration under penalty of perjury certifying s/he has complied with the provisions of this Policy related to personally-owned communication devices and email and social media accounts.

City employees who fail to comply with this policy may be subject to disciplinary action, up to and including dismissal.

All public records saved on a personally-owned communication device or account, for which a duplicate has not been saved to the City's computerized media storage system, despite the provisions of this Policy, must be retained by the employee based on their function and content in accordance with Washington State Local Records Committee guidelines which can be accessed at <http://www.sos.wa.gov/archives/RecordsRetentionSchedules.aspx>. Examples

of public records include but are not limited to non-transitory work-related text messages, emails, social media postings, or voicemails on a City-employee's or elected official's personally-owned cell phone, and transitory work-related text messages, emails, social media postings, or voicemails on a City-employee's or elected official's personally-owned cell phone, if the transitory record is within the scope of a pending Public Records Act request to the City.

If a public records request is made for written or voicemail communications or social media postings, all City employees, volunteer and elected officials who have used a personally-owned communication device or email or social media account for work-related purposes, during the time period specified by the records request, must conduct a good faith search for responsive records. The employee must sign a declaration under penalty of perjury that the personal device(s)/account(s) was (were) searched by him or her and that all responsive records have been provided to the City.

Upon terminating City service, employees, volunteers, and elected officials who have used their personally-owned communication devices and/or email or social media accounts for work-related purposes must search all such communication devices and/or email or social media accounts that they used for such purposes, and provide a copy of all records that pertain to City business and have not been previously duplicated to purged from the device(s) or account(s) under the above provisions of this Policy.

City employees shall be permitted to use their personally-owned communication devices to access their City-issued e-mail account through the City's Outlook Web Access application, or other applications provided that all e-mails are captured by the Enterprise Vault system.

Transitory Records

- 5.5 If an employee is unsure whether a record is transitory, a supervisor should be consulted to ensure proper procedures are followed.
- 5.6 Personnel issue communications are often transitory (e.g. "I will be out sick today"; "I will be late for my shift today"; "Please change tomorrow's meeting time to 10:30 a.m."). A written communication or voicemail of this nature does not require retention unless it is within the scope of a pending Public Records Act request to the City. (As relates to transitory records concerning personnel attendance/timeliness matters, the employee must follow-up the written communication or voicemail with a leave request as soon as possible after returning to work.)
- 5.7 If an employee, volunteer, or elected official needs to communicate in writing on a work-related matter, whether the communication is transitory or non-transitory,

s/he shall email using only his/her City-issued email account or text using a City-Owned WCD to do so.

- 5.8 The City's Desk Phone system allows for callers to record a voicemail. That voicemail may be either transitory or non-transitory. There is no requirement to retain transitory voicemail messages unless the voicemail message is within the scope of a pending Public Records Act request. Non-transitory messages must be retained if subject to a retention policy.
- 5.9 The City has no method for storing or searching voicemails recorded to Desk Phones, so each individual City employee must retain voice mail records in an alternative format. Upon receipt of a non-transitory voicemail left on a Desk Phone, a City employee will promptly memorialize the substance of the voicemail in an email sent by the employee to him- or herself. The email will include the date and time the voicemail was received, the name and phone number of the caller, and the substance of the voicemail left on the employee's Desk Phone.

6.0 PROCEDURE

6.1 Determination of City-Owned WCD Eligibility

- 6.1.1 Eligibility is based on the need for frequent use of a WCD, 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 WCD's to the ITSD/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 ITSD, and eligibility in the new department or position must be re-established.

6.2 Determination of Phone and Plan

- 6.2.1 The need for a City-Owned WCD, and the WCD model and plan attributes, will be determined by the City.
- 6.2.2 Departments are responsible for projecting business use to the best of their ability and for communicating this estimate to ITSD. ITSD will be responsible for purchasing all City-Owned WCD and establishing plans with WCD providers – with the exception of Spokane Police Department and the Fire Department who will manage their own cellular services and equipment purchases. Departments with special needs must identify such to ITSD prior to purchase. ITSD will utilize its expertise, and

purchase the most cost-effective option of phones and plans to meet the departments' business requirements. ITSD 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.

6.3 Use of WCD's

6.3.1 Except for incidental personal use, City-Owned WCDs 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 WCD 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.

6.3.2 City employees operating a moving motor vehicle while holding a wireless communication device to his or her ear may be 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 WCD 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**

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

6.3.3 A City employee operating a moving motor vehicle, who by means of a wireless communication device, sends, reads, or writes a text message email, or other data transmission, may be 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 a 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 for-hire operator and that operator's dispatcher, in which the device is permanently affixed to the vehicle.

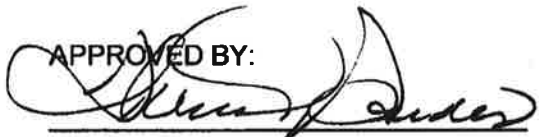
6.3.4 In many cases, a WCD operate as a camera or as a way to access the internet or email. Employees operating a City-owned WCD in these capacities must comply with City of Spokane policy ADMIN 0620-06-56, "Internet Access," and City of Spokane policy ADMIN 0620-05-055, "Email."

7.0 RESPONSIBILITIES

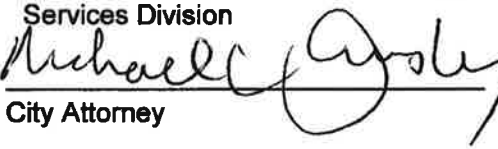
The Innovation and Technology Services Department shall administer this policy.

8.0 APPENDICES

Employee Acknowledgement – Wireless Communication Devices

APPROVED BY:


 City Administrator


 Director – Innovation and Technology
 Services Division


 City Attorney

 11/15/17
 Date

 11/13/2017
 Date

 11-7-17
 Date

CITY OF SPOKANE

**Employee Acknowledgement – City-Owned Wireless Communication
Devices [Appendix 1]**

Employee Name

I affirm that I have read, understand, and agree to comply with the City Policy's provisions concerning City-Owned Wireless Communication Devices.

1. I will only conduct City business on City-Owned WCDs.
2. I understand no privacy rights exist in City-Owned WCD.
3. The City may inspect City-Owned WCDs at any time without notice.
4. Upon notification that my City-owned WCD needs to be searched pursuant to a public records request, I will take steps to assure that no records are deleted from any City-Owned WCD issued to me and will promptly make arrangements with I&TS or TARU to have the City-Owned WCD searched for responsive records.
5. I will protect my City-Owned WCD from loss, damage, or theft.
6. I understand that a violation of City policy may result in disciplinary action, up to and including termination.

Employee Signature

Date