

## ADMINISTRATIVE REGULATION

Office of the City Manager Executive Department City of Dover, New Hampshire	Effective Date: <b>June 1, 2015</b>	A.R. No: 6-4
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Subject:  <b>Cellular Device Policy</b>	Supersedes:  November 1, 2013	Approved by:  City Manager

**1.0 PURPOSE:**

To establish the Policy and Procedures for appropriate use of city issued cellular devices to all department heads and/or their designee employees with City issued cellular devices and to establish guidelines for the use of personal cellular devices in relation to City of Dover business by City of Dover employees and public body members. Cellular devices are issued to certain employees for noncompensatory business purposes as a working condition fringe benefit in order to better serve the city and citizens of Dover.

**2.0 ORGANIZATIONS AFFECTED:**

All departments, department heads, and employees who are issued cellular devices due to their position within the City. All employees or public body members who access City email on their cellular devices.

**3.0 DEFINITIONS:**

- 3.1 Working Condition Fringe Benefit – Property and services provided to an employee so that the employee can perform his or her job. It applies to the extent the employee could deduct the cost of the property or services as a business expense or depreciation expense if he or she had paid for it.
- 3.2 Business use- Any use in the course of performing specific job-related duties on behalf and for the benefit of the City of Dover.
- 3.3 Personal Use- Any cellular device use that does not benefit the City of Dover and/or is not made while performing specific job-related duties. According to Internal Revenue Service Code, any *personal use* of an employer-issued phone by the employee may be considered taxable income and subject to withholding taxes.
- 3.4 De Minimis (Minimal) Fringe Benefit – Any property or service provided to an employee that has so little value that accounting for it would be unreasonable or administratively impracticable.
- 3.5 User- A City employee or public body member, chosen to carry a City issued cellular device by their Department head, responsible for the cellular device equipment and usage.
- 3.6 Cellular Device Equipment- The equipment purchased and provided by the City for the use of cellular communication for City business. Cellular Device Equipment may also be the personal property of an employee or public body member.
- 3.7 Essential- Absolutely necessary; extremely important.
- 3.8 Noncompensatory business purposes- Substantial business reasons for supplying a cellular device to an employee which includes the need to contact the employee at all times for work-related emergencies. Personal use of an employer-provided cellular device, provided primarily for this reason, is excludable from an employee's income as a *de minimis* fringe benefit.

**4.0 POLICY:**

- 4.1 Certain personnel, deemed so by the Department Head, are required to carry a City of Dover issued cellular device to be responsive to the City while in the field during normal

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business hours, during emergencies and, at times, outside of normal business hours. The value of an employer-provided cellular device is excludable from an employee's income as a working condition fringe-benefit. Personal use of City-issued cellular devices is excludable from an employee's income as a de minimis fringe benefit, because City issued cell-phones are provided and used primarily for noncompensatory business use.

4.2 A City of Dover employee may configure their personal cellular device to synchronize with the City of Dover's messaging server if a City of Dover department head to whom the employee reports, directly or indirectly, deems the configuration is appropriate and necessary to assist the employee to perform the employee's job. An employee may call-forward phone calls or voice message alerts to their personal cellular device, with Department Head approval and under specific conditions identified under section 5.2, below. To utilize this option the employee must complete the Cellular device Policy Form A.

4.3 City issued cellular devices are City property, and should be treated as such. There will be no loaning of the City issued cellular devices, unless extenuating circumstances or emergency situations are taking place, or a Department Head tells you otherwise. The City will replace lost or damaged City owned cellular devices at the Department Heads' discretion and only within reason. The user is responsible for this equipment, and should use common sense when using the City-owned cellular device.

**5.0 PROCEDURES:**

5.1 City Issued Cellular Device Users:

5.1.1 Each user designated by the department head must acknowledge and sign the Cellular Device Policy.

5.1.2 All users **shall** adhere to this and all Administrative Regulations including the Communications Policy, the Harassment Policy, the Sexual Harassment Policy, and the Workplace Violence Policy, and all state and federal rules and laws. Any user found in violation of these policies in any capacity and/or regarding cellular device use will be subject to disciplinary action under the terms of their collective bargaining agreement, individual employment agreement, Merit Plan, and/or department regulations.

5.1.2.1 The employee or public body member shall not use their cellular device while driving a moving motor vehicle upon a way or temporarily halted in traffic for a traffic control device or other momentary delay, including but not limited to: reading, composing, viewing, or posting any electronic message; or initiating, receiving, or conducting a conversation; or initiating a command or request to access the Internet; or inputting information into a global positioning system or navigation device; or manually typing data into any other portable electronic device.

5.1.2.2 However, the employee may utilize the hands-free technology to engage in receiving, or conducting a conversation as long as they are hands-free and in compliance with the above section.

5.1.3 Each month, every City cellular device user is required to review the invoice for their cellular device number for accuracy.

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- 5.1.4 Personal cellular device calls should be kept to a minimum. Users are to use the same discretion with personal use of cellular devices as they would any other City technology; they are only to make/receive personal calls on the cellular device if they are "essential", do not interfere with work assignments, are kept to a minimum and are not able to be scheduled during non-work hours.
- 5.1.5 City cellular device user may choose to pay for any added feature (text or picture messaging, 411, data, GPS, etc.) that is compatible with their City issued cellular device at the rate provided by the City cellular device carrier. The user will be responsible for the full charges of these services, as well as any overage fees that they might incur. The added feature charges must be paid each month by the user.
- 5.1.6 The City reserves the right to seek reimbursement from those employees whose personal use of the City-issued cellular device is determined at the sole discretion of the City to be above and beyond de minimus. The employee will be charged for personal usage, overages or data at the overage rate the City pays per minute, text, or data upon a determination of excessive personal use.
- 5.2 Personal Cellular Device User Conditions
  - 5.2.1 The City of Dover shall not pay expenses related to the employee's or public body member's personal cellular device use.
  - 5.2.2 The employee shall maintain a professional greeting on their personal cellular device if they will be call-forwarding messages for short periods of time.
  - 5.2.3 The cellular device shall be automatically password-protected after 15 minutes or less of inactivity.
  - 5.2.4 The cellular device shall be configured to synchronize no greater than two weeks of messaging information.
  - 5.2.5 The City of Dover technical staff shall not be available to support questions related to the employees' personal cellular device.
  - 5.2.6 The employee shall notify the City of Dover Information Technology Director within one business day if the personal cellular device is lost or stolen.
  - 5.2.7 The employee or public body member shall erase all City of Dover credentials and data when discontinuing use of the device for City of Dover business purposes.
  - 5.2.8 The employee or public body member shall be cognizant and careful when installing an application on their cellular device. Ideally, the employee or public body member may install an application to assist in mobile wipes, as needed.
  - 5.2.9 The employee or public body member shall not use their cellular device while driving a moving motor vehicle upon a way or temporarily halted in traffic for a traffic control device or other momentary delay, including but not limited to: reading, composing, viewing, or posting any electronic message; or initiating, receiving, or conducting a conversation; or initiating a command or request to

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access the Internet; or inputting information into a global positioning system or navigation device; or manually typing data into any other portable electronic device. However, the employee may utilize the hands-free technology to engage in a conversation as long as they are hands-free in compliance with the above section.

- 5.3 Department Heads: Department heads will receive cellular device bill detail each month to monitor call use and distribute to each City cellular device user for review. Users may be required to reimburse at the city's overage rate if excessive personal usage occurs.
- 5.4 Each Department head will be responsible for ensuring that each employee cellular device user is accountable to their respective agreements. Department heads shall be responsible for the enforcement of the provisions of this regulation.
- 5.5 Cellular device users should be respectful of their cellular device usage in public places and in meetings. Employees should turn off the device or activate the silent alarm or vibration feature during meetings.
- 5.6 Cellular device users are advised that calls made and received, photos taken, and text messages sent and received on City owned or issued equipment is subject to City review and inspection at any/all times. Furthermore, such calls, photos, and text messages may be subject to release under the Freedom of Information Act and the Right to Know Law, RSA 91-A.
- 5.7 Cellular device users are discouraged from operating a cellular device at all while driving.