

ADMINISTRATIVE RULES – CITY OF KNOXVILLE

17 – Information Technology

17.01

COMPUTER USE

Computers and related items furnished by the City are City property, intended for use by employees and other authorized personnel (“users”) for City business. Computers and related items include, but are not limited to, hardware, software (including e-mail and internet software), and computer files and documents. The City has the right, but not the duty, to monitor any and all of its computers and related items including, but not limited to: monitoring users’ visits on the Internet, reviewing material downloaded or uploaded by users, and reviewing e-mail sent and received by users.

(A) Waiver of Privacy

Users have no expectation of privacy in e-mail messages, data accessed through the Internet, or any other data or information created or stored on City computers and related items, nor does the use of passwords by users create any privacy rights in this information. The City may access, monitor, or reproduce these messages and data, without the consent of users, when it is deemed necessary in the sole discretion of the City. All passwords must be provided to the user’s director or office/agency head or the Department of Information Systems upon request. The use of undisclosed passwords is prohibited.

(B) Prohibited Uses

Accessing, displaying sending, receiving, or storing of sexually explicit (as described in Administrative Rule 1.05) or other inappropriate material is prohibited, unless the user is required to take possession of such material during the performance of their official job duties (e.g., confiscation or other similar justification) or can demonstrate a legitimate City interest in such conduct (e.g., police investigation of criminal activity).

No user shall use City computers and related items in a manner that is disruptive or offensive to others or in violation of any provision of the City’s personnel policies. Other prohibited uses include, but are not limited to, any material containing ethnic slurs, racial comments, off-color jokes, or material that may be construed as sexual, racial or other harassment, or the showing of disrespect of others.

No software may be installed or downloaded on to City computers without the written permission of the Department of Information Systems.

The e-mail system shall not be used to solicit or to conduct personal business ventures.

Individuals who observed conduct that they believe violates this rule should report the incident in writing to the Department of Human Resources (or, alternatively, the Department of Law) as soon as possible after its occurrence.

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(C) Compliance with Applicable Laws and Licenses

Users must comply with all software licenses, copyrights, and all other state and federal laws governing intellectual property and online activity. No user may duplicate such software without the written permission of the Department of Information Systems.

17.02

ELECTRONIC RECORDS RETENTION

(A) Purpose

Electronic records must be managed alongside traditional records to ensure compliance with state and federal regulations and to preserve the history of the City. The purpose of this rule is to set forth the policies and procedures for management and disposition of electronic records.

(B) Scope

This rule applies to anyone who makes or receives electronic records on behalf of the City and applies to all electronic records that are made or received in the transaction of City business.

(C) Definitions

“Archiving” means the process of saving e-mail infrequently accessed on City e-mail servers.

“Electronic record” means any record that is created, received, maintained, or stored on the City’s local workstations or central servers. Examples include, but are not limited to, the following:

- electronic mail (“e-mail”)
- word processing documents and spreadsheets
- databases
- pictures and video
- maps and drawings

“Legal custodian” means the originator of an e-mail message or the creator of an electronic document if that person is an employee; otherwise it is the employee to whom the message is addressed or to whom the electronic document is sent. If the record is transferred, by agreement or policy, to another person for archival purposes then that person becomes the legal custodian.

“Official records retention and disposition schedules” means the general and departmental program schedules set forth in [Knoxville City Code § 2-761 et seq.](#)

“Purging” means to systematically and permanently delete e-mail older than the specified retention length.

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(D) General Requirements

Maintenance and disposal of electronic records, as determined by the content, is the responsibility of the legal custodian and must be in compliance with applicable law and in accordance with guidelines established by the City. Failure to properly maintain electronic records may expose the City and individuals to legal risks.

The director or head of each department, office, or agency having public records is responsible for ensuring compliance with this rule; the Tennessee Public Records Act, Tenn. Code Ann. § 10-7-503, *et seq.*; and the Knoxville City Code. When an employee leaves a department, office, or agency, the director or head thereof or their designee is responsible for designating a new custodian and ensuring that any public records in the separating employee's possession are properly transferred to the new custodian within ten (10) days of transfer or termination. The director or office/agency head or their designee is responsible for contacting the Department of Information Systems to arrange for the transfer of the electronic records to the new custodian before the accounts are scheduled to be deleted. Should the director or office/agency head or their designee fail to arrange for the transfer to the new custodian, the electronic records shall be transferred to the custody of the director or office/agency head.

(E) E-mail Requirements

Work-related e-mail is a City record and must be treated as such. Each e-mail user must take responsibility for sorting work-related messages and retaining City records as directed in official records retention and disposition schedules. E-mail that does not meet the definition of a public record, e.g., personal e-mail or junk e-mail, should be deleted immediately.

City e-mail servers are not intended for long-term record retention. E-mail messages and any associated attachment(s) with retention periods greater than five (5) years are to be printed and filed in similar fashion to paper records. The e-mail message should be kept with the attachment(s). The printed copy of the e-mail must contain the following header information:

- who sent message;
- to whom the message was sent;
- the date and time the message was sent;
- the subject of the message.

When e-mail is used as a transport mechanism for other record types, it is possible, based on the content, for the retention and disposition periods of the e-mail and the transported record(s) to differ. In this case, the longest retention period shall apply. Only the final e-mail from a series of exchanges needs to be retained provided it is historically complete.

(F) Instant Messaging

The City does not authorize the use of instant messaging ("IM") for City business.

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(G) Backup Files

The Department of Information Systems performs backups of the e-mail and electronic files stored on central servers on a regular schedule for disaster recovery. These backups are used for system restoration purposes only. The system administrator is not the legal custodian of messages or records which may be included in such backups.

(H) Litigation Holds

When litigation against the City or its employees is filed or threatened, the law imposes a duty upon the City of Knoxville to preserve all documents and records, including electronic records, that pertain to the issues. Any City employee who becomes aware that litigation may arise from a particular circumstance has a duty to report that circumstance to the Department of Law through supervisory channels immediately.

As soon as the Department of Law is made aware of pending or threatened litigation, a litigation hold directive will be issued to the legal custodian(s) of paper or electronic records that may be related to the litigation. The litigation hold directive will, as appropriate:

- specify that all documents related to the litigation must be preserved;
- identify the sources of all possible evidence (correspondence, memoranda, faxes, hard drives, network and e-mail servers, handheld electronic devices, etc.);
- specify a point person to oversee the preservation process;
- identify a relevant time frame; and
- specifically direct that all discoverable evidence may not be destroyed, modified, or otherwise disposed of, and suspend any routine document destruction procedures.

To the extent possible, paper and electronic records subject to the litigation hold directive will be segregated and kept separate from other paper and electronic records and identified appropriately. The litigation hold directive overrides any records retention schedule that may have otherwise allowed or required the transfer, disposal or destruction of the relevant documents until the hold has been cleared by the Department of Law. E-mail, hard drives, and computer accounts of separated employees that have been placed on a litigation hold by the Department of Law will be maintained by the Department of Information Systems until the hold is released.

No employee having been notified by the Department of Law or who otherwise knows or should know of a litigation hold may alter or delete a paper or electronic record that falls within the scope of that hold. In addition to disciplinary action, violation of a litigation hold may subject the individual to liability for sanctions by the courts.

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(I) Archiving E-mails

An employee may choose to archive e-mails for a period of five (5) years. Archiving e-mails is for the convenience of the user and is not intended as a permanent method of storage.

(J) Purging E-mails

The Department of Information Systems may purge both archived and online e-mail boxes of content more than five (5) years old each year. The Department of Information Systems will provide employees fourteen (14) days' notice prior to purging.

17.03

SOCIAL MEDIA

This rule governs the official use of social media by City departments, offices, agencies, and personnel. It does not address private use of social media by employees. Directors and heads of offices and agencies may establish supplementary policies, procedures, regulations, and rules for personal social media use by employees.

(A) General Guidelines

Social media can provide quick, effective means of communication with the general public about City services, events and projects. City departments, offices, and agencies that wish to create their own social media accounts for purposes of public communication are allowed to do so, as long as they adhere to the guidelines set forth below.

(B) Website As Primary Outlet

The City's primary online presence is the official City website, www.knoxvilletn.gov. Unlike third-party social media platforms, the website is owned and controlled by the City. As much as possible, social media posts and pages should refer and link to information on the website. Social media should be thought of as auxiliary communications outlets branching off of the website, rather than as separate, stand-alone platforms.

(C) Content

Employees representing the City through social media outlets or participating in social media features on City websites must maintain a high level of ethical conduct and professional decorum. Failure to do so is grounds for revoking the privilege to participate in City social media sites, blogs, or other social media features.

Employees should remember that content and messages posted on City social media platforms are public and may be perceived and cited as official City statements by the media or the general public.

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Where practical, City social media platforms should visibly display the City logo, the 311 logo, and a link to the City website.

Any available filters for profanity and offensive language should be enabled for any City social media account.

Content of all social media posts should be:

- **Accurate.** Verify the spellings of names and places; the dates, times and locations of events; and the functionality of any hyperlinks included in the post.
- **Grammatically Correct.** Use proper sentence structure, punctuation, and capitalization, to the extent possible. Abbreviations and shortcuts are okay on platforms which have a strict character limit, but make sure your meaning is clear.
- **Professional.** Social media encourages a conversational tone, which can be helpful in presenting information in a friendly and accessible way, but there is a balance to strike in maintaining professional credibility. Remember you are speaking not only for yourself but for the City as a whole.
- **Civil.** Do not engage in arguments or hostile exchanges through social media. It is fine to answer questions to the best of your ability, but do not get drawn into combative dialogue with people who just want to vent or sling insults. (To put it another way, don't feed the trolls.) You can always end an exchange by referring people to the 311 Center for Service Innovation for more information or to file a complaint.
- **Concise.** Even on social media platforms without a mandatory character limit, social media posts should be as short as possible. A few sentences or a few short paragraphs with links to supporting material should suffice in most cases.

(D) Frequency

Social media is only effective if used with some regularity. Although posting frequency may vary depending on the specific needs of the department, office, or agency, in general social media should be used on at least a weekly basis. If you do not generate enough material to post weekly, then you probably do not need a social media platform. Instead, you can forward information to the Webmaster to be posted on the website and on our primary social media (the City's Facebook page, the Mayor's Facebook page, etc.).

(E) Administrative Authority

All City social media platforms shall be approved in advance by the Office of Communications and will be subject to annual review.

In addition to the primary operators of the social media platform, members of the Office of Communications must be designated as administrators of all City social media accounts. This should include the head of the Office of Communications and the Webmaster. This provides backup in case information needs to be updated, amended, or deleted at a time when the primary operators are unavailable. Members of the Office of Communications will step in only on an emergency basis or as requested by the primary administrators or by the Mayor. Our intent is to provide as much freedom as

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possible to the primary administrators, but repeated violations of this rule by any employee could lead to suspension of administrative privileges for the relevant social media accounts.

(F) Retention and Archiving of Material

Material posted to City social media accounts is considered public record. All of our social media posts, comments and interactions will be archived for easy access and reference. Social media records will be subject to the same rules and restrictions as all other public records.

(G) Public Comment and Terms of Service

Public interaction is an important component of effective social media, but it needs to be monitored. On Facebook pages or any other platform where comment is allowed, terms of service approved by the Office of Communications must be posted.

Any offensive comments should be flagged and referred to the Office of Communications for review and possible action up to and including deletion.

17.04

OPEN DATA

The following rule governs open access to data held by the City.

(A) Definitions

“Data” means statistical, factual, quantitative, or qualitative information that is maintained or created by or on behalf of the City.

“Dataset” means a named collection of related records, with the collection containing data organized or formatted in a specific or prescribed way, often in tabular form.

“Open data” means data that is available online, in an open format, with no legal encumbrances on use or reuse, and is available for all to access and download in full without fees. Legal encumbrances include federal copyright protections and other non-statutory legal limitations on how or under what conditions a dataset may be used.

“Open format” means any widely accepted, nonproprietary, platform-independent, machine-readable data format which permits automated processing of such data and facilitates analysis and search capabilities.

“Protected information” means any dataset or portion thereof to which the City may or must deny access pursuant to state or federal law related to privacy or confidentiality, or any other law or rule or regulation.

“Publishable data” means data which is not protected or sensitive and which has been prepared for release to the public.

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“Sensitive information” means any data which, if published by the City online, could raise privacy, confidentiality, or security concerns or have the potential to jeopardize public health, safety, or welfare to an extent that is greater than the potential public benefit of publishing that data.

(B) Open Data Program

The City commits to develop and implement practices that will allow it to:

- Proactively release all publishable City data, making it freely available in open formats, with no restrictions on use or reuse, and fully accessible to the broadest range of users to use for varying purposes;
- Publish high quality, updated data with documentation (metadata) and permanence to encourage maximum use;
- When feasible, provide or support access to free, historical archives of all released City data;
- Measure the effectiveness of datasets made available through the Open Data Program by connecting open data efforts to the City’s programmatic priorities;
- Minimize limitations on the disclosure of public information while appropriately safeguarding protected and sensitive information; and
- Encourage and support innovative uses of the City’s publishable data by agencies, the public, and other partners.

The development and implementation of these practices shall be overseen by the Data Governance Committee reporting to the Mayor or the Mayor’s designee.

This rule shall apply to all departments, boards, commissions, offices, agencies, and any other administrative unit, howsoever denominated, of the City (“City unit”).

Appropriate funding shall be sought from the City Council to achieve the goals of this program.

(C) Governance

Implementation of the Open Data Program will be overseen by a Data Governance Committee comprised of a member of the Mayor’s office, the head of the Office of Communications, the Director of Information Systems, the Director of Law, the head of the 311 Center for Service Innovation, and any other director or office/agency head assigned by the Mayor, or their designees, who will work with City units to:

- For each City unit, identify and publish appropriate contact information for a lead open data coordinator who will be responsible for managing that agency’s participation in the Open Data Program;
- Oversee the creation of a comprehensive inventory of datasets held by each City unit which is published to the central open data location and is regularly updated;
- Develop and implement a process for determining the relative level of risk and public benefit associated with potentially sensitive, non-protected information so as to make a determination about whether and how to publish it;

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- Develop and implement a process for prioritizing the release of datasets which takes into account new and existing signals of interest from the public (such as the frequency of public records requests), the City's programmatic priorities, existing opportunities for data use in the public interest, and cost;
- Proactively consult with members of the public, City unit staff, journalists, researchers, and other stakeholders to identify the datasets which will have the greatest benefit to City residents if published in a high quality manner;
- Establish processes for publishing datasets to the central open data location, including processes for ensuring that datasets are high quality, up-to-date, are in use-appropriate formats, and exclude protected and sensitive information;
- Ensure that appropriate metadata is provided for each dataset in order to facilitate its use;
- Develop and oversee a routinely updated, public timeline for new dataset publication; and
- Ensure that published datasets are available for bulk download without legal encumbrance.

In order to increase and improve use of the City's open data, the Data Governance Committee will actively encourage City unit and public participation through providing regular opportunities for feedback and collaboration.

(D) Central Online Location for Published Data

The City will create and maintain a publicly available location on the City's website or in another suitable online location where the City's published data will be available for download.

Published datasets shall be placed into the public domain. Dedicating datasets to the public domain means that there are no restrictions or requirements placed on use of these datasets.

Each published dataset should be associated with contact information for the appropriate manager of that dataset as well as with a file layout or data dictionary that provides information about field labels and values.

(E) Open Data Report and Review

The Data Governance Committee shall publish an annual Open Data Report. The report shall include an assessment of progress towards achievement of the goals of the City's Open Data Program, an assessment of how the City's open data work has furthered or will further the City's programmatic priorities, and a description and publication timeline for datasets envisioned to be published by the City in the following year.

During the review and reporting period, the Data Governance Committee should also make suggestions for improving the City's open data management processes in order to ensure that the City continues to move towards the achievement of the City's open data goals.

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17.05

CELLULAR PHONES AND COMMUNICATIONS

(A) Purpose and Objectives

The City wishes to provide the most consistent, convenient and cost-effective cellular telephone and communications services possible to approved employees. The objectives of this rule are to:

- provide guidelines to employees who may wish to have cellular communications services to conduct City business;
- apply standards to the cellular communications equipment and service agreements used by City employees;
- simplify and make more manageable the City's relationship with cellular communications vendors;
- provide a system for monitoring cellular communications usage patterns so that plans can be routinely modified to better meet the needs of the user;
- ensure that the City's acquisition of cellular communications services is cost-effective;
- provide an internal system for purchasing cellular communications services, gaining access to repair services, acquiring necessary training and support and communicating available programs to our users;
- establish a system for monitoring future developments in cellular services and selecting those that meet the needs of the City; and
- keep the City and employees in compliance with all federal, state, and local laws.

(B) Cellular Service Vendors

To facilitate accomplishment of the above objectives, the City may at its discretion enter into contracts with cellular communications service providers. During the period when one or more of these contracts is in force, the City will only purchase cellular devices or cellular communications service agreements for employee use on the basis of these contracts, unless a specific exception is granted.

(C) Eligibility and Approval

Cellular communications equipment and services may be provided to certain City employees to conduct activities incidental to their City employment that either cannot be conducted on a land-line telephone or for which it would be inefficient to use a land-line telephone. Requests for cellular communications equipment should be prepared by the department's, office's, or agency's communications coordinator in writing (see Appendix A) and approved by the employee's director or office/agency head (who will confirm need) and the budget officer for the employee's department, office, or agency. Once approved by the department, office, or agency and the budget officer, the request will be forwarded to the City's designated communications service representative(s), who will confirm the appropriateness of the desired equipment and plans and actually place any and all orders.

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(D) Personal Calls

The City provides cellular communications equipment to employees for the purpose of conducting City business. Use of City-owned/provided cellular equipment to make or receive personal calls is generally prohibited (except as provided in Section J, Option 3), although it is understood that usage for personal reasons may be necessary in emergency situations. Employees must realize that although personal calls made within the local calling region and under the usage limits provided by the employee's plan do not always result in additional charges, they do count toward the overall time limits established under the service agreement. Any overage, long distance, roaming, or other charges realized by the employee for personal calls shall be the responsibility of the employee.

(E) Other Restrictions

An employee may not operate a personal business from a City cellular device.

While operating a motorized vehicle or equipment or engaged in any activity so that a momentary lapse of attention could cause harm to a person(s) or property, an employee will at all times be alert and attentive to the operation of the vehicle or equipment and refrain from any activity which impairs the employee's ability to remain alert and attentive.

An employee must comply with all laws restricting use of cellular communications equipment.

(F) Plans, Handsets, Features, and Accessories

The City will contract for a set of usage plans, handsets, features, and accessories that will serve the needs of most employees. An employee wishing to have features other than those offered in the available programs must be documented by the department's, office's, or agency's communications coordinator in writing (see Appendix A) and approved by the employee's director or office/agency head (who will confirm need), and the budget officer for the employee's department, office, or agency. Once approved by the department, office, or agency and the budget officer, the request will be forwarded to the City's designated communications service representative(s), who will confirm the appropriateness of the desired equipment and plans and actually place any and all orders.

(G) Damage, Loss, or Theft

Handsets or other equipment damaged in the course of business should be brought to department's, office's, or agency's communications coordinator who will make a recommendation to the City's designated cellular communications representative(s) regarding appropriate action (replacement, repair or whatever is determined to be the best course of action). Lost or stolen cellular equipment should be immediately reported to the employee's communications coordinator and City's designated cellular communications representative(s) so that the service can be cancelled. All costs incurred for replacement or repair will be the responsibility of the employee's

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department, office, or agency or the employee if the damage or loss is found to have resulted from inappropriate employee behavior.

(H) Usage Monitoring

Directors and the heads of offices and agencies are responsible for educating subordinates about appropriate cellular communications procedures and monitoring their usage. In emergency situations, supervisors may grant exceptions to these usage policies. In such circumstances, any charges incurred for personal use must be reimbursed by the employee on a timely basis.

(I) Program Management

The relationship with cellular providers shall be managed through the Department of Finance and Accountability. The designated cellular representative(s) will place all orders for cellular telephones and services with the contracted vendor and take delivery of equipment. Representatives will contact employees ordering equipment when it arrives and provide necessary orientation and training. Department of Finance and Accountability staff and the department, office, or agency communications coordinator will monitor plans and overall usage and suggest changes in service agreements to provide the most convenient and economical plan to the employee.

Employees may call the local representatives of the contracted vendor or vendors to discuss the various options available on City sponsored programs.

Department of Finance and Accountability staff and department, office, and agency communications coordinators will monitor changes in cellular telephone technologies and make recommendations for improvements in the City's equipment on an as needed basis.

(J) Communication Plans

In order to ensure that the City and employees remain in compliance with all applicable law, cellular service plans shall follow the following basic formats.

Plans that provide cellular communications devices limited to "push-to-talk" and confined to government business contacts shall be unrestricted in their usage except as limited in Section E. By definition, these devices cannot be utilized as telephones and are basically substitutes for two-way radios.

Plans that provide cellular communications devices that are administratively restricted (as to receiving or originating communications) to the controlled group of authorized users (e.g., City/government contacts) and may not be utilized for personal use shall be unrestricted in their usage except as limited in Section E.

Plans that provide cellular communications devices that may originate or receive communications from within or outside the approved list of City communications users. To accommodate these users, the following plans are available:

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Option 1 – Under this option, the City will provide the communications devices and pay the monthly bills. The user is required to keep a log of all personal communications and at the end of each month, indicate on the bill which communications are personal (incoming and outgoing calls). The employee is then required to timely reimburse the City the pro-rata portion of the bill based upon time and applicable rates. Failure of the employee to maintain the required log of all communications may cause the City to include the market value of the device in the employee's gross earnings for tax purposes as pursuant to current IRS regulations.

Option 2 – Under this option, the individual employee will receive a taxable allowance in an amount determined to be reasonable, appropriate and approved by the employee's director or office/agency head based upon the employee's need for cellular communications services and the rates in effect at the time. When appropriate, a supplemental allowance may be granted to cover the initial cost of the device or a necessary upgrade or replacement due to age, obsolescence, or irreparable damage incurred in the employee's performance of their duties. In no instances shall this allowance be considered regular income includable for pension determination purposes. Utilizing this option, the employee is required to purchase and maintain an approved cellular communications device and to take advantage of any special pricing plans and devices offered by the City's designated cellular communications service provider. Employees receiving this allowance must (1) make their contact information available to appropriate City communications users and (2) utilize the City approved cellular services provider to minimize any interoperability problems. Cellular communications allowances should be based upon guidelines outlined in Appendix C of this rule. Such personal accounts will be in the employee's name, all charges will be the responsibility of the employee, and all invoices will be sent directly to the employee's billing address. Failure of the employee to maintain the service shall be grounds for termination of this option at the discretion of the employee's director or office/agency head.

Option 3 – As with Option 1, the City will provide the communications devices and pay the monthly bills, but the employee's earnings will be adjusted to incorporate the effective taxable value of the cell phone benefit in a manner similar to take home vehicles for non-uniformed personnel. Under this option, employees may make personal calls without keeping logs but it shall be up to the employee's director or office/agency head to monitor and limit personal usage in order to keep the cost to the City of the phone service within acceptable and budgeted boundaries.

The department, office, or agency communications coordinator is responsible for reviewing the department's communications bills, working with the users to determine the amount to be reimbursed, and collecting and remitting communications charges, if any, utilizing Appendix B as a guide. "Timely reimbursement" shall mean the reimbursement to the City of all undisputed personal call charges billed to the employee within 20 days of billing. Reimbursements from a specific user of less than \$1.00 for a month are not required.

There may be circumstances where this rule may not be applicable. In these instances, the special need must be documented to the appropriate director or office/agency head and approved by the Department of Finance and Accountability and, if appropriate, by the Mayor's office.

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APPENDIX A

Request for Cellular Communications Device

Date: _____

1. Device Requested: _____

2. Justification for Request: _____

3. Device Cost: _____

4. Monthly Service Charge: _____

I acknowledge that I have read and understand Administrative Rule 17.05 as currently promulgated and agree to abide by its terms and conditions. I further understand that should I violate this rule, I will be subject to disciplinary action(s) pursuant to City of Knoxville policies in effect at the time. I further agree to reimburse the City within 20 days of undisputed cellular device charges for any personal usage of City owned devices for which the City is liable.

Requesting Employee

Approved by:

Communications Coordinator

Director or Office/Agency Head

Finance Budget Officer

Mayor (when applicable)

Order placed with _____ on _____ by _____

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APPENDIX B

Reimbursement Computation Methodology for Reimbursing the City for Personal Usage of Cellular Communications Devices

The following examples are believed to be in accordance with IRS Guidelines and if followed, employees shall be found in compliance with approved City guidelines and policies and will be held harmless by the City from any adverse actions by the City or others. To enhance the employee's understanding of these guidelines, the following excerpt of Internal Revenue Service Guidelines as of December 2008 is provided:

To be able to exclude the use by an employee from taxable income from an employer-owned cell phone, the employer must have some method to require the employee to keep records that distinguish business from personal phone charges. If the telephone is used exclusively for business, all use is excludable from income (as a working condition fringe benefit). The amount that represents personal use is included in the wages of the employee. This includes individual personal calls, as well as a pro rata share of monthly service charges.

In general, this means that unless the employer has a policy requiring employees to keep records, or the employee does not keep records, the value of the use of the phone will be income to the employee.

At a minimum, the employee should keep a record of each call and its business purpose. If calls are itemized on a monthly statement, they should be identifiable as personal or business, and the employee should retain any supporting evidence of the business calls. This information should be submitted to the employer, who must maintain these records to support the exclusion of the phone use from the employee's wages. The following situations illustrate the application of the rules:

Example 1: A municipal government provides an employee a cell phone for business purposes. The government's written policy prohibits personal use of the phone. The government routinely audits the employee's phone billings to confirm that personal calls were not made. No personal calls were actually made by the employee. The business use of the phone is not taxable to the employee.

Example 2. A municipal government provides an employee a cell phone for business purposes. The government's written policy prohibits personal use of the phone. However, the government does not audit phone use to verify exclusive business use. The fair market value of the phone, plus each monthly service charge and any individual call charges are taxable income to the employee, reportable on Form W-2.

Example 3: A state agency provides an employee with a cell phone and pays the monthly service charge. The employee is required to highlight personal calls on the monthly bill. The employee is then required to timely reimburse the agency for the cost of the personal calls, and the

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employee is charged a pro rata share of the monthly charge. The value of the business use portion of the phone is not taxable to the employee.

To compute an employee's share of the bill, utilize the following examples:

Example 1 –

Basic monthly cell phone bill = \$60 for 600 minutes (\$0.01/minute)

Call overage = 100 minutes at \$0.25/minute = \$25.00

Total minutes used during month = 700

Employee personal usage = 20 minutes

Approved Computation:

$\frac{20 \text{ (personal usage minutes)}}{100 \text{ (total overage minutes)}} \times \$25.00 \text{ (overage charge)} = \$5.00 \text{ reimbursement to City}$

Example 2 –

Basic monthly cell phone bill = \$60 for 600 minutes (\$0.01/minute)

Call overage = none

Total minutes used during month = 500

Employee personal usage = 20 minutes

Approved Computation:

$\frac{20 \text{ (personal usage minutes)}}{600 \text{ (total minutes available)}} \times \$60.00 \text{ (basic charge)} = \$2.00 \text{ reimbursement to City}$

The above examples should cover the majority of cellular communications reimbursement issues. Should additional items arise regarding this policy that need clarification as to methods of computing, contact the Department of Finance and Accountability for guidance.

ADMINISTRATIVE RULES – CITY OF KNOXVILLE

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APPENDIX C

Guidelines for Computing the Cellular Communications Allowance

	Range:
Level I – Smartphone.....	\$0 - \$100
Level II – Feature phone.....	\$0 - \$50
Level III – Other devices	Separately determined

The preceding guidelines were promulgated based upon the cost to the City for legitimate business usage. Personal usage is not included in the above guidelines and should not be taken into effect when determining a fair stipend for the employee's business usage reimbursement.