



MEMO

To: A.J. Johnson, City Administrator

From: Nancy A. Lueck, Finance Director

Date: April 12, 2009

Re: City Cell Phone Policy

As discussed over the last several months, the City needs to adopt a cell phone policy in order to comply with Internal Revenue Code requirements. In general, the IRS requires any personal use of City-provided cell phones be reported as taxable income to employees. This includes individual personal calls as well as a pro-rata share of the monthly service charges. A significant amount of employee, department, and Finance staff time would be required to track personal vs. City use of cell phones which would have a cost in City staff time in order to accommodate continued personal use of City-provided cell phones. In lieu of tracking all individual calls, the attached Cell Phone Policy is proposed for adoption. This policy was modeled after the City of Iowa City's policy which was found to meet the IRS requirements during their recent IRS audit.

The proposed policy would give employees two options. The first would require that personal calls (incoming or outgoing) would no longer be permitted on City-provided cell phones. As required by the IRS, cell phone bills would be audited at least once per year to verify that employees are complying with policy.

The second option would provide a monthly cell phone allowance of \$30.00 to employees in lieu of a City-provided cell phone. This would be a taxable benefit to these employees. The employee would be required to purchase their own plan and phone and would be responsible for the loss or damage to the phone as well as payment of all cell phone invoices. Tracking of individual calls would not be required under this option.

Please include the attached Cell Phone Policy on the agenda for the April 16, 2009 meeting. This policy is proposed to be effective May 1, 2009 which would allow employees to select an option under the policy and contact cell phone providers to make changes if they would choose Option 2. Please contact me if you have any questions or need additional information.

City of Muscatine
Cell Phone/Wireless Communications Policy
Effective May 1, 2009

Requests for wireless communications equipment and services must be made to the Department Director. The Department Director, subject to City Administrator approval, will determine if and what communication equipment will be needed by an employee. The Department Director has the authority to determine, at any time, whether or not a cell phone is a justified communication device.

THE CITY'S WIRELESS COMMUNICATIONS (CELLULAR, RADIO, PAGING) IS NOT TO BE USED FOR PERSONAL CALLS.

- If it is determined by the Department Director that a cell phone is a necessary communication device for an employee, two options are available for service.

Option 1: City-Provided System

- A City-provided phone is to be administered by the Department.
- The Department will investigate plan options, administer distribution of phones and maintenance issues, audit charges, and process invoices for payment.
- City cell phones are **not to be used for personal calls either outgoing or incoming.**
- The cell phone number must be supplied to the City Administrator's Office.
- Any change in cell phone number(s) or cell phone assignment(s) must be supplied to the City Administrator's Office.
- The City's Finance Department will audit each employee's cell phone calls at least once per year. For that month, each employee will be required to identify calls as to whether they are business or personal.
- Employees must acknowledge and agree to this policy by their signature on the attached form.

Option 2: Allowance System

- A \$30 monthly allowance is given to the employee. (This is a **taxable** benefit.)
- The employee is to purchase their own plan and phone.
- The employee is responsible for maintenance and/or loss of the phone and for payment of invoices.

- There is no restriction of calls and no City audit of charges. However, if there is a performance issue or concern of illegal activity arising out of use of the phone during work hours, the City reserves the right to review personal cell phone statements.
- The cell phone number will be supplied to the City Administrator's Office.

Transition to the Allowance System

Department heads are to inform employees with cell phones or other wireless devices of this policy and determine which option their employees would like. During the transition to the allowance system, the City will **NOT** be responsible for or pay costs for early termination of existing cell phone contracts. Employees may switch to the Allowance Option at the end of the current cell phone contract period unless the contract can be terminated prior to its expiration at no cost to the City.

Note: All cell phone numbers must be supplied to the Department Directors, who in turn provide a departmental list to the City Administrator's Office. This applies to both Option 1 and Option 2.

City of Muscatine

Employee Acknowledgement of Cell Phone/Wireless Communications Policy

I have received a copy of the City of Muscatine Cell Phone/Wireless Communications policy and agree to abide by its requirements.

I would like to choose:

_____ **Option 1.** City-provided cell phone at no cost to employee. This phone will be used only for City business and will not be used for personal calls either outgoing or incoming.

_____ **Option 2.** Cell Phone monthly allowance of \$30 (this is a taxable benefit). A change to the allowance system must occur at the end of a cell phone contract period unless the current contract can be terminated without a cost to the City.

Employee Signature

Date

MEMORANDUM

March 4, 2009

TO: A.J. Johnson, City Administrator
FROM: Stephanie Romagnoli, Human Resources Manager
SUBJECT: Policy Review – In-Depth Agenda

As we have discussed in the past, there are some policy updates to be considered by City Council for approval.

The first is to adopt a clearer policy on the issue of privacy as it relates to city property, including lockers, vehicles, phones, email and other items owned by the city and provided to employees for their use. This policy is not new, but puts on paper the current practice. It has been reviewed by City Attorney Allbee. The draft is attached to this memo for your review and the review of City Council.

Additionally, I would like to request a change to the vacation accrual amounts for non-union employees. As you know, the union employees currently accrue additional vacation hours at earlier intervals than non-union employees. Over the years we have made an effort to keep benefits standardized so that all employees are treated the same. It has also occurred, in recent years, that employees who are promoted from union positions to non-union positions receive a decrease in vacation benefits.

Vacation is currently accrued as follows:

	Non-Union		Union
First Anniversary Date	80 hours	First Anniversary Date	40 hours In year 2 – 80 hours
Fifth Anniversary Date	120 hours	Fifth Anniversary Date	120 hours
Fifteenth Anniversary Date	160 hours	Thirteenth Anniversary Date	160 hours
Twenty-second Anniversary Date	200 hours	Twentieth Anniversary Date	200 hours

The reason for the difference in year one is that non-union employees are required to take a full week block of vacation after their first year. This policy was changed a few years ago to comply with audit recommendations. Additionally, many of these positions are management level.

Third, due to some changes in the law I have updated the FMLA policy to incorporate new benefits allowed for military personnel and their families. This policy has been reviewed by legal counsel and is in compliance with the new FMLA requirements.

Finally, the new cell phone policy is attached for review by the City Council. This policy has been written to comply with IRS requirements on providing employees with cell phones for business use.

Please let me know when you would like to place this on the agenda or Council consideration. Please also contact me if you require any additional information. Thank you for your consideration of these requests.

The City provides and maintains equipment and supplies to accomplish the work required by our employees. City-owned equipment and supplies include, but are not limited to: an employee's office or work area, desks, files (desk and computer), e-mails, telephones, cell phones, lockers, and computers. It is expected that city-owned equipment and supplies be used for conducting City business. The City assumes no responsibility or liability for any items of personal property which are placed in the desk or work area.

Since equipment and supplies are property of the City, the City reserves the right to **access or** conduct a search of any work area and equipment. A search will typically be conducted as part of an investigation. A search is not an accusation of wrongdoing.

The City will search an employee's work area only if City has a reasonable belief that the item in question is in the employee's work area. If the City conducts a search under the terms of this policy, there will be at least two individuals present at the time of the search, **which will include an individual designated by the City Manager, Human Resources or the City Attorney.**

Refusal to submit to a search can lead to disciplinary action, including termination of employment.

FAMILY AND MEDICAL LEAVE POLICY

Employees, who have been employed for at least one (1) year, and have worked at least 1,250 hours during the preceding 12-month period, are eligible for family and medical leave. For employees not eligible for family and medical leave, the city will review department considerations and individual circumstances involved.

Family or medical leave will consist of appropriate accrued paid leave and unpaid leave. If leave is requested for an employee's own serious health condition, the employee may use accrued sick leave, vacation, or compensatory time. If leave is requested for any of the other eligible reasons (listed below), the employee may choose to use available family sick leave, accrued vacation or compensatory time. The remainder of the leave will then consist of unpaid leave.

All employees who meet the applicable time of service requirements may be granted family or medical leave consisting of appropriate accrued paid leave and unpaid leave for a period of twelve (12) weeks during a twelve (12) month period. The twelve (12) month period will begin the day leave commences. Leave will be granted for the following reasons:

- 1) birth of the employee's child and to care for the child;
- 2) placement of a child with the employee for adoption or foster care;
- 3) care for a spouse, child or parent who has a serious health condition;
- 4) a serious health condition that renders the employee incapable of performing the functions of his or her job and as defined by the Act
- 5) in compliance with leave for active duty National Guard and Reserve personnel
- 6) care for a spouse, child, or parent who has an illness or injury in the line of duty and as required by the Act,

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The entitlement to leave for the birth or placement of a child for adoption or foster care will expire twelve (12) months from the date of the birth or placement.

An employee requesting leave must complete the appropriate form(s) and return them to the Human Resources (HR) Department. Forms are available in the HR Department.

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Deleted: The application should include the reason for the leave, the duration of the leave, and the starting and ending dates of the leave.

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with normal leave request procedures.

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An application for leave based on the serious health condition of the employee, the employee's spouse, child, or parent must also be accompanied by a Medical Certification Statement completed by a health care provider.¶

The city reserves the right to designate leave as Family and Medical Leave and employees may be required to complete the medical certification forms for leave in excess of three (3) days and as outlined in the Act. For leave in excess of ten (10) days, a medical certification will be required. Failure to comply with this request could result in disqualification of the leave.

Deleted: An employee intending to take leave because of an expected birth or adoption, or for planned medical treatment must submit the request at least thirty (30) days before the leave is to begin. If leave is to begin within thirty (30) days, the notice must be given as soon as the need for the leave arises.

During a period of family medical leave, an employee will be retained on the city health plan under the same conditions that applied before leave commenced. To continue

health coverage, dental coverage or life insurance coverage the employee must continue to make any contributions that he or she made to the plan before taking leave.

An employee is not entitled to the accrual of any seniority or employment benefits that would have occurred if not for the taking of leave. An employee who takes unpaid family medical leave will not lose any employment benefits that accrued before the date leave began. The employee will be restored to his/her original position or to a position with equivalent pay, benefits and other terms and conditions of employment upon return to work. The city cannot guarantee that an employee will be returned to his or her original job. The city will make a determination as to whether a position is an "equivalent position".

For purposes of salary and pay progression following unpaid leave please see the Administration of Pay Progression on page 14.