

POLICY:

CELLULAR PHONES IN THE WORKPLACE

SECTION I: PURPOSE

The purpose of this policy is to establish guidelines and administrative procedures for employees who have been identified as needing cellular phones (both Town provided and reimbursed (via allowances) personal phones) during working hours and for other times as needed for the health, safety, welfare, or operational efficiency of the Town.

SECTION II: POLICY

It is the policy of the Town that if an employee's job duties require them to be readily accessible for frequent contact or critical contact with the Town staff or public, and the accessibility extends to time away from work or involves on-call responsibilities, then the eligible employee may have a choice to either use a Town-issued cellular phone, or provide their own cellular phone for which they will be compensated for business use pursuant to this Policy. The Town shall have the discretion to determine who is eligible as well as the service plan and features that will be provided, required, or otherwise reimbursed via allowances.

SECTION III: DEFINITIONS

- A. *Cellular phone*: A cellular phone is a telecommunication device that uses radio waves over a networked area (cells) and is served through a cell site or base station at a fixed location, enabling calls to transmit wirelessly over a wide range, to a fixed landline or via the Internet.
- B. *Employee*: Aside from the sections on "Purpose," "Policy," and "Eligibility," an employee is more narrowly construed as a Town employee who is either using a Town provided cellular phone or is being reimbursed via allowances for using their personal cellular phone.

SECTION IV: ELIGIBILITY

Employees whose job duties include the frequent need for a cellular phone may be provided a town issued cellular phone or, in lieu thereof, use their own personal cellular phone and receive a reimbursement allowance for business-related costs. Department heads may identify employees who hold positions that include the need for a cellular phone. The Town Administrator shall have final approval on all such determinations. Generally, an employee is eligible for a town issued cellular phone or a reimbursement allowance for using a personal cellular phone if at least one (1) of the following criteria are met:

- 1) The job function of the employee requires considerable time outside of his/her assigned office or work area and it is important to the Town that she/he is accessible during those times; or
- 2) The job function of the employee requires him/her to be accessible outside of scheduled or normal working hours where time sensitive decisions/ notifications are required.

If an employee is eligible for a town issued cellular phone or a reimbursement allowance for a personal cellular phone based on satisfaction of at least one of the above criteria, then if the employee also needs data access for health, safety, welfare or operational efficiency concerns, their town issued cellular phone or reimbursement allowance shall provide data access or provide for a data plan.

SECTION V: LIMITATIONS ON TOWN PROVIDED CELLULAR PHONES

- A. Invoices: Invoices may be audited by the employee's supervisor to ensure that no unauthorized use has occurred.
- B. Personal Use: Occasional brief personal use is allowable; however, employees should always use their own personal cellular phones for personal use, if possible.
- C. Text Messaging: Shall be limited whenever possible, unless the cellular phone has a service plan that provides for unlimited messaging or a messaging allowance and in either case, is approved for such use by the employee's department head.
- D. Internet Access: Employees should use discretion when using their cellular phone to not access websites that would be in violation of the Town's Computer Use Policy.
- E. Directory Assistance: Employees should avoid using cellular directory assistance so as to avoid additional charges.
- F. Reimbursement to the Town for Personal Use: If an employee's personal use of the Town's cellular phone results in an unreasonable charge to the Town, the user will be responsible for reimbursing the Town. This includes charges for text messaging, long distance and/or roaming charges, overage charges, multi-media charges, and charges for directory assistance.
- G. Data Downloads: Employees should attempt to download data in wi-fi networks so as to minimize costs.
- H. Any cellular phone that has data capabilities must be secured based on current security standards including password protection and encryption. If a cellular phone with data capabilities is stolen or missing, it must be reported to the employee's supervisor, the service provider, and to the Information Technology (IT) Director as soon as possible.
- I. Misuse: Use of the cellular phone in any manner contrary to local, state, or federal laws will constitute misuse, and may result in disciplinary action up to and including immediate termination.
- J. No expectation of privacy: Town issued cellular phones shall remain the sole property of the Town and shall be subject to inspection or monitoring at any time. Employees who are issued town cellular phones must understand that there is no expectation of privacy when using such phones. The Town has the right to review all records related to Town issued cellular phones, including but not limited to phone logs, text messages, and internet usage logs. Users should further be aware that such records may be subject to discovery under RSA Chapter 91-A (aka, the "Right to Know" law).
- K. Upon resignation or termination of employment, or at any time upon request, the employee will produce the device for return and inspection. Employees unable to present the device in good working condition will be expected to bear the cost of a replacement.

SECTION VI: REIMBURSEMENT ALLOWANCES FOR PERSONAL CELLULAR PHONES

- A. Allowance Amount: The amount shall be fifteen dollars (\$15.00) per month (\$180 per year) for cellular phones, and thirty-five dollars (\$35.00) per month (\$420 per year) for cellular phones utilizing an unlimited data plan, e-mail, texting and internet access features. No further reimbursement for cellular phones is available to employees who receive an allowance.
- B. The allowance is neither permanent nor guaranteed. The Town reserves the right to remove a participant from this plan or cancel the allowance for business reasons.
- C. To receive the allowance, an "Authorization for Reimbursement Allowance" form must be completed (see Appendix A).
- D. Allowance Payment: The approved cellular phone reimbursement allowance will be paid to the employee annually each December. The employee is responsible for submitting to the Finance Office, a standard request for reimbursement form attached to the summary page of his/her cellular phone invoice to document that the employee has an active cellular phone plan.
- E. The employee is responsible for purchasing the cellular phone and establishing and maintaining a service contract with the cellular phone service provider of his/her choice. The cellular phone contract shall be in the name of the employee, who shall be solely responsible for all payments to the service provider. If the employee terminates the cellular phone contract at any point, s/he must notify his/her supervisor within five (5) business days.
- F. Because the cellular phone is owned personally by the employee, the reimbursement allowance is not considered taxable income and the employee may use the cellular phone for both business and personal purposes, as needed. The employee may, at his or her own expense, add extra services or equipment features, as desired. If there are problems with service, the employee is expected to work directly with the service provider for resolution.

SECTION VII: LIMITATIONS ON PERSONAL CELLULAR PHONES

- A. For a personal cellular phone approved for a reimbursement allowance under this policy, support from the Town's IT Department is limited to connecting the cellular phone to Town-provided services, such as e-mail, calendar, and contacts.
- B. The Town does not accept any liability for claims, charges or disputes between the service provider and the employee. Use of the cellular phone in any manner contrary to local, state, or federal laws will constitute misuse, and may result in disciplinary action up to and including immediate termination if misused in furtherance of Town business, and then, depending on the nature of the misuse.
- C. Any cellular phone that has data capabilities must be secured based on current security standards including password protection and encryption. If a cellular phone with data capabilities is stolen or missing, it must be reported to the employee's supervisor, the service provider, and to the IT Director as soon as possible.

- D. Employees are expected to delete all Town data from the cellular phone when their employment with the Town is severed, except when legally required to maintain that data (e.g., litigation).
- E. Note: Unlike Town provided cellular phones, users of personal cellular phones have an expectation of privacy and accordingly, if the Town desires to review the employee's cellular phone records, it will first obtain a search warrant or subpoena the relevant records pursuant to RSA Chapter 91-A (aka, the "Right to Know" law).

SECTION VIII: EMPLOYEE RESPONSIBILITIES

- A. Excessive use of cellular phones during the work day for personal use can interfere with employee productivity and be distracting to others. During paid work time, employees are expected to exercise the same discretion in using cellular phones as is expected for the use of any town telephone or computer. Cellular phones may not be used at any work site where the operation of the phone would create an unreasonable distraction to the public or other employees.
- B. Employees are expected to make personal communications on non-work time, when possible. However, it is understood that occasional personal communications of short duration may be accomplished without disrupting others and without having an adverse effect on one's job performance. Personal calls, incoming and outgoing, must be kept to a minimum and must be incidental to business use. Employees should use good judgment when making personal communications and should recognize that the Town incurs costs for each minute of air time on Town issued phones. Abuse of personal communications privileges may subject the employee to discipline.
- C. In order to ensure a productive work day, the following uses of any cellular phone are prohibited during working hours:
 - 1) Accessing the internet for non-work related purposes;
 - 2) Playing games;
 - 3) Watching movies, television, sports, etc.; and
 - 4) Any activity that violates town policy.
- D. Employees in possession of cellular phones are expected to protect them from loss, damage, or theft.

SECTION IX: SAFETY IN USING CELLULAR PHONES

- A. This section applies to all use of Town provided cellular phones, and to all use of personal cellular phones when used for Town business.
- B. Employees are encouraged to refrain from using a cellular phone while driving. Regardless of the circumstances, including slow or stopped traffic, employees are strongly encouraged to pull off to a reasonably safe location and safely stop the vehicle before using their cellular phone. If use of their cellular phone is unavoidable and pulling over is not an option, employees shall use hands-free options, abiding by applicable state laws. During hands-free operation, employees are expected to keep the usage to a minimum, refrain from discussions of complicated or emotional issues, and keep their eyes on the road. Special care should be taken in situations where there is heavy traffic, inclement weather or where the employee is driving in an unfamiliar area. Under no circumstances are employees allowed to place themselves at risk to fulfill business needs.

- C. With the exception of extraordinary circumstances, operators of authorized emergency vehicles are to comply with this Policy while driving.
- D. Engaging in text or email communications, or accessing the internet while driving is not allowable under any circumstance. Note: safely pull over to the side of the road before setting a destination and selecting a route for GPS-related applications.
- E. Employees who are charged with traffic violations resulting from the use of cellular phones while driving on duty may be subject to disciplinary action.
- F. Employees who are charged with traffic violations resulting from the use of their cellular phone while driving will be solely responsible for all liabilities that result from such actions.
- G. Violations of this Policy will be subject to discipline, up to and including dismissal.

SECTION X: WAIVERS

The Board of Selectmen may vote to waive any portion of this policy for good cause shown.

SECTION XI: AMENDMENTS

This policy may from time to time be amended by the vote of the Board at a regularly scheduled Board Meeting.

SECTION XII: EFFECTIVE DATE

This policy shall be effective upon a vote of the Board.

Adopted By Board of Selectmen – Date: June 16, 2014

Ross McLeod, Chairman

Al Letizio, Jr.

Roger Hohenberger

Bruce Breton

Joel Desilets
Board of Selectmen

**ACKNOWLEDGEMENT
RECEIPT OF THE TOWN OF WINDHAM'S CELLUAR PHONES IN THE
WORKPLACE POLICY**

Please read the policy carefully to ensure that you understand the policy before signing this document.

I certify that I have received a copy of the Town of Windham's Cellular Phones in the Workplace Policy. I understand that it is my responsibility to read and comprehend this Policy. I have read and understand the content, requirements, and expectations of the Policy, and I agree to abide by the Policy. I understand that if at any time I have questions regarding the Policy, I will consult with my immediate supervisor.

I understand that failure to abide by the Policy could result in the loss of cellular phone privileges and/or disciplinary action.

Employee Name (Signature)

Employee Name (Please Print)

Department

Date

APPENDIX A
AUTHORIZATION FOR REIMBURSEMENT ALLOWANCE

Please read the policy carefully to ensure that you understand the policy before signing this document.

I understand that my job duties require a town issued cellular phone. However, I have opted instead to use my personal cellular phone for business purposes. I understand the Town is not responsible for any costs I incur while conducting work-related calls on my personal cellular phone and I will receive a reimbursement allowance in accordance with this policy. I understand there may be requests and subpoenas made under RSA 91-A (aka, the "Right to Know" law), seeking governmental records.

Employee Name (Signature)

Employee Name (Please Print)

Approved Reimbursement Plan

Department Head (Signature)

Date