



## Town Council Agenda Report

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Date: February 25, 2020 Item No. 5

To: Honorable Mayor and Town Council

Subject: ADOPT RESOLUTION NO. 2020-06, A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING THE PERSONNEL POLICY AND PROCEDURES MANUAL FOR THE TOWN OF APPLE VALLEY

From: Douglas Robertson, Town Manager

Submitted by: Douglas Robertson, Town Manager

Budgeted Item:  Yes  No  N/A

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### RECOMMENDED ACTION

That the Town Council adopt the attached Resolution No. 2020-06, a resolution of the Town Council of the Town of Apple Valley adding Section 17.5 – Town Issued and Owned Cell Phones to Rule 17 Town of Apple Valley Computer, Word Processing, Electronic and Voice Mail Confidentiality (Access and Disclosure) Policy of The Personnel Policy and Procedures Manual for The Town of Apple Valley.

### BACKGROUND

The Human Resources Department, working in conjunction with the Innovation and Technology Department, recommends adding section 17.5 – Town Issued and Owned Cell Phones to Rule 17. The purpose of this policy is to establish consistent and clear rules for the issuance and/or use of cell phones to conduct official business on behalf of the Town of Apple Valley. Additionally, the policy will offer a Stipend In-Lieu Option for eligible employees to receive a stipend for use of their personal cell phone for Town-related business. Below are the four eligible stipend tiers. Additionally, all stipends will be based on Supervisor/Manager approval.

Tier 1 (\$25): For position levels such as Technician, Assistant; availability as needed during assigned work/event hours

Tier 2 (\$40): For position levels such as Specialist, Analyst, Assistant; availability as needed during assigned work/event hours; additional hours such as prescheduled or on-call hours

Tier 3 (\$65): For position levels such as Supervisor, Senior level; additional hours such as prescheduled or on-call hours

Tier 4 (\$100): For position levels such as Management and above; 24/7 availability plus unlimited data and/or tethering; requires Town Manager approval

**FISCAL IMPACT**

There is no financial impact to the Town for the recommended amendment to the Personnel Policy and Procedure Manual.

**ATTACHMENTS**

- A. Resolution No. 2020-06
- B. Rule 17, Section 17.5 Town Issued and Owned Cell Phones
- C. Town Cellular Phone Options Form

**RESOLUTION NO. 2020-06**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN  
OF APPLE VALLEY AMENDING THE PERSONNEL  
POLICY AND PROCEDURES MANUAL FOR THE TOWN  
OF APPLE VALLEY**

**WHEREAS**, the Town Council of the Town of Apple Valley has established THE Personnel Policy and Procedure Manual for the Town of Apple Valley employees; and

**WHEREAS**, the Town Council of the Town of Apple Valley wishes to modify a section of the Personnel Policy and Procedures Manual for the Town of Apple Valley employees.

**NOW, THEREFORE, BE IT RESOLVED THAT:**

1. Section 17.5
2. All resolutions, parts of resolutions in conflict herewith are hereby amended to be consistent herewith

Unless otherwise noted, the effective date of this Resolution shall be February 25, 2020.

**APPROVED and ADOPTED** by the Town Council of the Town of Apple Valley this 25<sup>th</sup> day of February, 2020.

\_\_\_\_\_  
Scott Nassif, Mayor

**ATTEST:**

\_\_\_\_\_  
La Vonda M-Pearson, Town Clerk

## ATTACHMENT A

### Section 17.5 Town Issued and Owned Cell Phones

#### 1. Purpose

The Town requires certain employees to be accessible by cellular (cell) phone due to the nature of their job position, function or duties. To facilitate this accessibility, the Town may provide eligible employees with either a Town-owned cell phone or a monthly stipend to assist in offsetting the cost of using their personal cell phones to conduct Town business activities. Eligible employees may include those who use cell phones on a regular basis during normal and/or off business hours, or who may need to be available during on-call or emergency situations.

The purpose of this Policy is to establish consistent and clear rules for the issuance and/or use of cell phones to conduct official business on behalf of the Town of Apple Valley.

Town-issued cell phones are managed and issued by the Town's Innovation and Technology (IT) Department. Cell phone stipends are administered through the Human Resources (HR) Department. Requests for Town-issue cell phones and monthly stipends may be submitted through either the HR Department or the IT Department.

#### 2. Town Issued and Owned Cell Phones

Eligible employees will be issued a Town-owned cell phone on a Town-provided cellular plan. The Town-owned cell phone is understood to be for Town-related work, although a modicum of personal use is allowed. Upon separation of employment or upon the individual no longer serving as a formal elected or appointed representative of the Town, the cell phone is to be returned to the Town.

##### 2.1. Professional and Conscientious Use

All employees are required to be professional and conscientious when using Town phones. Employees who are issued a Town-owned cell phone are required to acknowledge and abide by the Town's existing policies on employee conduct.

All passwords or security codes must be protected and not given out to others. The primary account and/or recovery account used on a Town-provided cell phone will be specified by the IT Department and must not be changed. Further device access and recovery settings will be determined by the IT Department.

##### 2.2. Damage, Loss or Theft

In the event of damage, loss or theft of a Town-issued phone, Town employees must notify their manager and the IT Department immediately. Town retains the right to correct any such incident in order to protect the integrity of Town's systems and data. A replacement phone will be issued as soon as possible and may incur additional costs to the respective Department. Employees may be responsible to pay for the replacement of damaged or lost equipment if it is determined that the loss or damage was due to the employee's negligence. Normal wear and tear are to be expected and will not be considered negligent use.

### 2.3. No Expectation of Privacy

Town employees and representatives should not use cell phones to discuss confidential or sensitive information, as cell phone conversations are not secure. Town employees and representatives shall retain no expectation of privacy in any discussion or text message sent or received on a Town-owned cell phone. The IT Department reserves the right to track the location of Town-owned cell phones as necessary and perform a remote reset/wipe of any Town-issued device at any time. Town employees and representatives shall retain no expectation of privacy with any phone call, discussion, or text message sent or received on a Town-owned cell phone.

### 2.4. Driving

Town requires strict adherence to state law concerning the use of cell phones while driving. For the safety of the Town's employees, representatives, and others, it is required that Town employees and representatives use hands-free devices while driving and using a cell phone. Employees and representatives are expressly prohibited from checking, sending or receiving emails or text messages while driving. These requirements apply at all times when driving a Town issued vehicle and at any time when driving on Town business, even if the employee or representative uses his or her own vehicle or cell phone. Failure to adhere to this Policy is grounds for discipline, up to and including termination, as applicable. Further, any such violation of this Policy may be punishable by an individual's loss of the right to use any Town-owned cell phone as described herein. In addition, violations of this Policy may be referred for criminal prosecution, if appropriate.

### 2.5. Audits

Copies of all cell phone bills shall be maintained by the IT Department and/or Finance Department. Additional audits of these bills shall be carried out on a periodic basis by IT Department staff to ensure adherence to this Policy. Annually, at the beginning of the budget process, the IT Department will provide each department with a list of their employees who have either been issued a Town-owned cell phone or who are receiving a cell phone stipend. Department Managers will review these lists to determine if their employees should continue to be issued a Town-owned cell phone or should continue to maintain their stipend program eligibility.

If, it is determined, at any time, that an employee is no longer required to carry a Town-issued cell phone, the employee will be notified by their Supervisor or Manager of the change and the employee will be required to turn in the Town-owned cell phone to their Supervisor or Manager within three business days after notification. Returned cell phones will be turned in to the IT Department within one (1) business day. If the employee was receiving a monthly stipend and if their Manager determined that this was no longer necessary, the department will notify the HR Department within one (1) business day that the stipend is to be cancelled. The stipend cancellation will be provided to payroll by the HR Department and will take effect at the next pay period.

### 3. Stipend In-Lieu Option

In-lieu of receiving a Town-owned cell phone, employees may be eligible to receive a stipend for use of their personal cell phone for Town-related business. This stipend will also help reduce the Town's direct and indirect cost to provide and maintain Town-owned cell phones.

Supervisors or Managers retain the right to decide whether an employee should receive a Town-issued cell phone, a stipend, or neither. The employee must complete and sign the Town Cellular Phone Options form (Ref. Appendix D).

#### 3.1. Tiered Stipend Rates

Four tiers are being provided for these allowances based on projected business use during normal business hours in addition to the following:

Tier 1 (\$25): For position levels such as Technician, Assistant; availability as needed during assigned work/event hours

Tier 2 (\$40): For position levels such as Specialist, Analyst, Assistant; availability as needed during assigned work/event hours; additional hours such as prescheduled or on-call hours

Tier 3 (\$65): For position levels such as Supervisor, Senior level; additional hours such as prescheduled or on-call hours

Tier 4 (\$100): For position levels such as Management and above; 24/7 availability plus unlimited data and/or tethering; requires Town Manager approval

Eligibility for this program is based on Town need. In special circumstances, the Town need may be greater than the prescribed Tier for a given position. Department Heads may request Town Manager approval for such adjustment by providing justification. As appropriate, tier rates may be adjusted to reflect market conditions in relation to projected business use. The allowance is not an increase in base pay and will not be included in calculations of salary increases or retirement benefits. The individual acknowledges that the IRS considers any stipend payment to be taxable income to the recipient and the recipient is solely responsible for any taxes arising from receiving a stipend.

### 3.2. Penalties

Any individual who violates this Policy may be disciplined, up to and including termination as appropriate, in accordance with these Rules. Further, any such violation of this Policy may be punishable by an individual's loss of the right to use any Town-owned cell phone as described herein. In addition, violations of this Policy may be referred for criminal prosecution, if appropriate.

### 3.3. Expectation of Accessibility of Employees

Supervisors and Managers are responsible to determine the expectation of accessibility of eligible employees and need for an appropriate data plan. If employees who receive a stipend are not fulfilling their responsibility to be available as expected, the stipend may be suspended or terminated. In order to qualify to receive a cell phone stipend, eligible employees are required to provide their own cell phone and maintain an active and appropriate cell phone account/plan for as long as they are required to be accessible. Employees under the stipend program may be asked to show proof of a cell phone account, such as a monthly bill, at any time. Employees are also required to provide their personal cell phone number to their Supervisor or Manager, the IT/HR Departments, and other Town staff as determined by their immediate Supervisor or Manager. Any change to an employee's personal cell phone number is to be reported to their immediate Supervisor or Department Manager, and the IT/HR Departments within one (1) business day of the change.

### 3.4. Subpoenas and Public Records Requests

All Town employees who use either a personal cell phone or a Town-owned cell phone for Town business should be aware that the content of emails, texts or phone calls dealing with Town business may be subject to subpoena or a Public Records Act request related to Town business.

## Attachment B

### Town Issued and Owned Cell Phone Agreement (Town Cellular Phone Options Form)

[Choose One]

Town Issued Cell Phone

#### Cell Phone Stipend

Tier 1 (\$25): For position levels such as Technician, Assistant; availability as needed during assigned work/event hours

Tier 2 (\$40): For position levels such as Specialist, Analyst, Assistant; availability as needed during assigned work/event hours; additional hours such as prescheduled or on-call hours

Tier 3 (\$65): For position levels such as Supervisor, Senior level; additional hours such as prescheduled or on-call hours

Tier 4 (\$100): For position levels such as Management and above; 24/7 availability plus unlimited data and/or tethering; requires Town Manager approval

**Phone #:** \_\_\_\_\_  
*required for Cell Phone Stipend*

**Effective Date:** \_\_\_\_\_

**Department:** \_\_\_\_\_

I, \_\_\_\_\_, hereby affirm that I have read, understand, and agree to the Town of Apple Valley's Town Issued and Owned Cell Phone Policy.

Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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Authorized by: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_