

CENTRAL WASATCH COMMISSION

POLICY CONCERNING PERSONAL USE OF PUBLIC PROPERTY

Section 1. **Purpose.** This shall be known as the “Central Wasatch Commission Policy Concerning Personal Use of Public Property” (this “*Policy*”). This Policy has been adopted by the governing body (the “*Board*”) of Central Wasatch Commission, a Utah interlocal entity (“*CWC*”), for the purpose of regulating the use of CWC-owned, leased, held, operated or managed equipment, vehicles, office supplies, devices, tools, facilities and other CWC-owned personal and real property (“*CWC Property*”).

Section 2. **Background; Effective Date.** The Utah Legislature adopted, and the Governor signed into law, H.B. 163, with an effective date of 1 July 2019. H.B. 163 focuses on the misuse of public property, since public property was not previously included in Utah’s criminal statutes to the same extent as public funds. Since the misuse of public property can result in criminal charges, CWC desires to adopt this Policy to clarify what may constitute a misuse of CWC Property and to authorize the personal use of CWC Property under certain circumstances. This Policy shall become effective upon the later of 1 July 2019 or the date this Policy is approved by the Board.

Section 3. **Definitions.** In this Policy, the following words will have the following meanings:

A. “*Authorized Personal Use*” means any personal use that is authorized pursuant to this Policy. As provided in UTAH CODE ANN. §76-8-402(1), a public servant may use CWC Property for a personal matter and personal use of CWC Property is allowed when:

(i) The use occurs as follows:

(a) The public servant is authorized to use or possess the CWC Property to fulfill the public servant’s duties owed to CWC;

(b) The primary purpose of the public servant using or possessing the CWC Property is to fulfill the public servant’s duties to CWC;

(c) The personal use is in accordance with this Policy; and

(d) The public servant uses and possesses the CWC Property in a lawful manner in accordance with this Policy; or

(ii) The personal use of the CWC Property is incidental, such as when:

(a) The value provided to CWC by the public servant’s use or possession of the Public Property for a public purpose substantially outweighs the personal benefit received by the public servant’s personal incidental use; and

(b) The incidental use is not prohibited by an applicable state or federal law.

Any lawful personal use of CWC Property by a public servant that is not prohibited by applicable state or federal law is specifically authorized and allowed by this Policy. CWC recognizes that third parties may benefit indirectly or directly from a public servant's personal use, or official use, of the CWC Property, which benefit is specifically condoned and authorized by this Policy so long as and to the extent that the benefit does not otherwise violate an applicable law, rule or ordinance, including but not limited to state statutory law and CWC's rules and regulations.

B. *“Public Property”* and *“CWC Property”* are interchangeable and mean and include any real or personal property that is owned, leased, held, operated or managed by CWC, including Public Property that has been transferred by CWC to an independent contractor for the purpose of providing a program or service for or on behalf of CWC. If and to the extent the Public Property is consumed or rendered effectively valueless to CWC as a program or service is provided to CWC by an independent contractor or as the Public Property is utilized by CWC employees, the property shall cease to be Public Property and may be disposed of as the independent contractor or CWC management deems fit, unless otherwise directed by CWC. *See* UTAH CODE ANN. §76-8-101(5).

C. *“Public Servant”* means an elected official of CWC; an appointed official of CWC; an employee, consultant, or independent contractor of CWC; or a person (including an individual, an entity, or an organization) hired or paid by CWC to perform a government function. *See* UTAH CODE ANN. §76-1-601(14). A person becomes a “public servant” upon the person's election, appointment, contracting or other selection, regardless of whether the person has begun to officially occupy the position of a public servant.

Section 4. **Personal Use.**

A. *Devices.* Communication and other devices, such as mobile phones, landline phones, and computers, that are owned by CWC may be used by an employee for occasional, incidental personal activities such as calling home, making other personal calls during a break, accepting occasional incoming personal calls, etc., provided that such personal usage is not excessive. Similarly, CWC-owned computers and smart phones may be used for personal text messaging, e-mails and other personal uses, provided that such use is limited, as much as reasonably possible, to break periods or periods when the employee is not “on the clock,” and is not excessive.

B. *Physical Facilities.* Personal activities by public servants at CWC-owned, leased, managed and/or maintained facilities, such as meeting family members or friends for short periods of time, are allowed, provided they do not become excessive or disruptive.

C. *Office Supplies, Etc.* Office supplies, shop supplies and other CWC-owned supplies and items of personal property are intended for uses that directly benefit CWC. Incidental personal use of the same by public servants is allowed, such as the use of CWC-owned office supplies including pens, pencils and paper, provided that such incidental personal use is not excessive.

D. *Miscellaneous.* Any CWC Property that does not fall under any of the above classifications may nevertheless be utilized by a public servant for incidental personal uses, so long as such use is not excessive.

Section 5. **Subsequent Modifications; Higher Law.**

A. *Policy Not Exhaustive.* The Board reserves the right to add to, delete from or change this Policy at any time. This Policy is not necessarily inclusive because, among other reasons, unanticipated circumstances may arise and/or other CWC rules or regulations may apply. CWC may vary from this Policy, subject to the application of applicable state and federal laws, if the circumstances so justify.

B. *Higher Law to Control.* In the event of any conflict between this Policy and any applicable federal or state law, rule or regulation, the law, rule or regulation, including amendments and modifications thereto, shall control this Policy to the extent of such inconsistency.