



**CITY COUNCIL
AGENDA ITEM APPROVAL FORM**

AGENDA ITEM INFORMATION

MEETING DATE: AUGUST 21, 2019

AGENDA ITEM TITLE:

RESOLUTION NO. 19-29: A RESOLUTION OF THE CITY OF TAYLORSVILLE AMENDING THE CITY'S HUMAN RESOURCES POLICIES AND PROCEDURES MANUAL TO ADD A POLICY REGARDING EMPLOYEE PERSONAL USE OF CITY-OWNED PROPERTY.

PUBLIC HEARING REQUIRED:

YES: _____

NO: X

ORDINANCE REQUIRED:

YES: _____

NO: X

RESOLUTION REQUIRED:

YES: X

NO: _____

PRESENTER:

TRACY S. COWDELL

AGENDA ITEM SUMMARY: LIMIT 150 WORDS

On March 25, 2019, the Governor signed H.B. 163, effective July 1, 2019, which, in part, addresses the misuse of public property; specifically, H.B. 163 criminalizes the unauthorized use of public property for personal purposes. Since the misuse of public property can result in criminal charges, including felony charges, the City desires to adopt the below-proposed policy to clarify what may constitute misuse of City property and to authorize the personal use of City property under certain circumstances.

ATTACHMENTS:

TAYLORSVILLE, UTAH
RESOLUTION NO. 19-29

**A RESOLUTION OF THE CITY OF TAYLORSVILLE AMENDING THE CITY'S
HUMAN RESOURCES POLICIES AND PROCEDURES MANUAL TO ADD A POLICY
REGARDING EMPLOYEE PERSONAL USE OF CITY-OWNED PROPERTY.**

WHEREAS, the Taylorsville City Council (the "Council") met in regular session on August 21, 2019, to consider, among other things, amending the City's Human Resources Policies and Procedures Manual to add a policy regarding employee personal use of City-owned property; and

WHEREAS, on March 25, 2019, the Utah State Governor signed House Bill 163 ("H.B. 163"), effective July 1, 2019, which, in part, addresses the misuse of public property; specifically, H.B. 163 criminalizes the unauthorized use of public property for personal purposes; and

WHEREAS, since the misuse of public property can result in criminal charges, including felony charges, the City desires to adopt the below-proposed policy to clarify what may constitute misuse of City property and to authorize the personal use of City property under certain circumstances; and

WHEREAS, after careful consideration, the Council has determined that it is in the best interest of the health, safety, and welfare of the citizens of Taylorsville to approve the proposed amendment to the City's Human Resources Policies and Procedures Manual.

NOW, THEREFORE, BE IT RESOLVED by the Taylorsville City Council that the proposed amendments to the City's Human Resources Policies and Procedures Manual are hereby approved and are designated by interlineating the words to be deleted and underlining the words to be added, as follows:

**HUMAN RESOURCES POLICIES AND PROCEDURES MANUAL FOR
TAYLORSVILLE**

SECTION VII (9)(G): PERSONAL USE OF CITY PROPERTY

i. **Purpose:** This policy has been adopted for the purpose of regulating the use of City-owned, leased, held, operated or managed property including, but not limited to, equipment, vehicles, office supplies, devices, tools, facilities, and other City-owned personal and real property (hereinafter referred to as "City Property").

ii. **Definitions.** For purposes of this policy, the below-stated terms shall have the following meanings:

a. **"Public Servant"** means an elected official of the City; an appointed official of the City; an employee, consultant, or independent contractor of the City; or a person (including an individual, an entity, or an organization) hired or paid by the City 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.

b. “Public Property” and “City Property” are interchangeable and mean and include any real or personal property that is owned, leased, held, operated or managed by the City including, but not limited to, Public Property that has been transferred by the City to an independent contractor for the purpose of providing a program or service for or on behalf of the City. In the event and to the extent the Public Property is consumed or rendered effectively valueless to the City as a program or service is provided to the City by an independent contractor or as the Public Property is utilized by City employees, the property shall cease to be Public Property and may be disposed of as the independent contractor or City administration deems fit, unless otherwise directed by the City. See UTAH CODE ANN. § 76-8-101(5).

c. “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 City Property for a personal matter and personal use of City Property is allowed when: (a) (i) the public servant is authorized to use or possess the Public Property to fulfill the public servant’s duties owed to the City; (ii) the primary purpose of the public servant using or possessing the Public Property is to fulfill the public servant’s duties to the City; (iii) the personal use is in accordance with this Policy; and (iv) the public servant uses and possesses the City Property in a lawful manner in accordance with this Policy; or (b) the personal use of City Property is incidental, such as when: (i) the value provided to the City 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 (ii) the incidental use is not prohibited by an applicable state or federal law. Any lawful personal use of City Property by a public servant that is not prohibited by applicable state or federal law is specifically authorized and allowed by this Policy. The City recognizes that third parties may benefit indirectly or directly from a public servant’s personal use, or official use, of the City’s Public 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 rules and regulations of the City.

iii. Personal Use:

a. Devices: Communication and other devices, such as mobile phones, landline phones, tablets, and computers, that are owned by the City 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, City-owned computers, tablets, 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 City-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/Shop Supplies/etc.:** Office supplies, shop supplies and other City-owned supplies and items of personal property are intended for uses that directly benefit the City. Incidental personal use of the same by public servants is allowed, such as the use of City-owned office supplies including pens, pencils and paper, provided that such incidental personal use is not excessive.

d. **Miscellaneous:** Any City Property that does not fall under any of the above classifications may nevertheless be utilized by a public servant for incidental personal uses.

iv. **Subsequent Modifications/Higher Law:**

a. **Policy Not Exhaustive:** The governing body of the City reserves the right to add to, delete from or change this Policy at any time. The Policy stated above is not necessarily inclusive because, among other reasons, unanticipated circumstances may arise and other rules or regulations of the City may apply. The City may vary from the 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 the Policy and any applicable federal or state law, rule or regulation, the law, rule or regulation, including amendments and modifications thereto, shall control to the extent of such inconsistency.

THIS RESOLUTION, assigned Resolution No. 19-29, shall take effect as soon as it shall be published or posted as required by law, deposited and recorded in the office of the City Recorder, and accepted as required herein.

PASSED AND APPROVED this _____ day of _____, 2019.

TAYLORSVILLE CITY COUNCIL

By: _____
Daniel Armstrong, Chairman

VOTING:

Meredith Harker	Yea	___	Nay	___
Ernest Burgess	Yea	___	Nay	___
Daniel Armstrong	Yea	___	Nay	___
Curt Cochran	Yea	___	Nay	___
Brad Christopherson	Yea	___	Nay	___

PRESENTED to Mayor of Taylorsville for her approval this _____ day of _____, 2019.

APPROVED this _____ day of _____, 2019.

Mayor Kristie S. Overson

ATTEST:

Cheryl Peacock Cottle, Recorder

DEPOSITED in the Recorder's office this _____ day of _____, 2019.

POSTED this _____ day of _____, 2019.