



SUMMARY SHEET

Presenter/Submitted By: Recorder Hale		
Subject: 4. Consider approval of Resolution 2019-16 adding Section 18 Personal use of Public Property, renumbering the current Section 18 to Section 19 and amending Section 9.1.4.B of the Sunset City Personnel Policies and Procedures	Work Session? Yes X No	Meeting Date: 10/15/19
		Fiscal Impact: n/a
		Funding Source:
Background: During the 2019 Legislative Session, the Legislature passed HB 163, which “amends provisions relating to offenses against the administration of government.” Among other statutes, HB 163 amended Utah Code 76-8-101, which makes the appropriation of “public property to the public servant’s own use or to benefit or to use or benefit another without the authority of law...” either a second or third degree felony, depending on the value of the use of public property. Under this broad definition an employee’s use of a City phone, computer or vehicle for minor personal use after their work hours might be deemed a violation and prosecuted. However, the statute also says, “a public servant is not guilty of a violation of this section for <i>authorized personal use</i> of public property. Therefore, it has been recommended that public entities draft a policy outlining what personal use is authorized.		
Attachment(s): A copy of Resolution 2019-16 and City Attorney Ericson’s opinion email.		
Recommendations from staff, attorney, etc:		
Recommended Motion: To approve Resolution 2019-16 adding Section 18 Personal use of Public Property, renumbering the current Section 18 to Section 19 and amending Section 9.1.4.B of the Sunset City Personnel Policies and Procedures.		

RESOLUTION NO. 2019-16

A RESOLUTION ADDING SECTION 18 – PERSONAL USE OF PUBLIC PROPERTY, RENUMBERING THE CURRENT SECTION 18 – EMPLOYEE RECOGNITION TO SECTION 19 AND AMENDING SECTION 9.1.4.B OF THE SUNSET CITY PERSONNEL POLICIES AND PROCEDURES

Whereas, the City desires to ensure that City Employees are responsibly using City property according to Utah State law and in the best interests of Sunset City;

Now, Therefore, be it resolved by the Sunset City Council that Section 18 – Personal Use of Public Property be added and Section 19 – Employee Recognition and Section 9.1.4.B of the Sunset City Personnel Policies and Procedures be amended to read as follows:

Section 1.

9.1.4.B. Use of Sunset City Equipment - Reasonable use of Sunset City tools and equipment to protect property and preserve life is expected. Sunset City equipment or tools may not be taken home or used for private purposes, with exception of those outlined in Section 18.

Section 2.

SUNSET CITY CORPORATION PERSONNEL POLICIES AND PROCEDURES - SECTION 18

PERSONAL USE OF PUBLIC PROPERTY:

18.1.1 Purpose – The City desires to ensure that City Employees are responsibly using City property according to Utah State law and in the best interests of Sunset City. This policy applies to all Sunset City employees, as well as Sunset City Elected Officials, contractors, consultants, volunteers, and others who perform a public function and are authorized to hold or use Sunset City property.

18.2.1 Definitions (as used in this Chapter):

- A. Authorized Personal Use of Public Property: The City authorizes limited personal use of public property by City employees if such use is too trivial or minor to merit consideration, incidental, and satisfies each of the following criteria:
1. Employee is authorized to use or possess the public property to fulfill job duties;
 2. Primary purpose of the use or possession of public property by employee is to fulfill job duties;
 3. Public value of use or possession of public property by employee substantially outweighs any personal benefit to the employee;
 4. Personal use or possession of public property by employee imposes little or no cost to the City;
 5. Personal use of City property is brief, limited in scope and of reasonable duration;

- 6. Personal use of public property does not interfere with the use of the property for City business;
 - 7. Personal use of public property does not disrupt the performance of the employee's official duties;
 - 8. Personal use of public property does not create risk of liability or harm to the City, including reputational damage.
 - 9. Personal use of City property is not prohibited by law or by any City policy or ordinance.
- B. Incidental Use: Use of public property that is limited in scope, amount or extent, or that is uncommon or infrequent.
- C. Public Property: City property is any real or personal property acquired with tax, grant or governmental funds of any source. Property owned, held, controlled or managed by Sunset City remains the property of Sunset City at all times and the privilege to use City property may be revoked at any time. Any authorization for personal use of City property does not grant any employee any right to use the property nor create an expectation of privacy while using City property.

18.3.1 Personal Use of Public Property

18.3.2 The following is prohibited for any public property:

- A. Using public property for the personal gain or compensation of the employee.
- B. Using public property for an outside person, business, group or organization.
- C. Using public property to assist a campaign for election or other political gain.
- D. Loaning or transferring public property to another.
- E. Failure to keep public property in the employee's possession until returning it to the City.
- F. Knowingly keeping a false account or making a false entry or erasure in an inventory or an account relating to public property.
- G. Willfully refusing to relinquish public property on the order of a competent authority or when the relinquishment is required by law.

18.3.3 Personal use of City computers:

- A. Harassing, discriminatory and illegal activities are prohibited during personal use of City computers.
- B. Personal use of software and applications which disrupts or distracts the conduct of City business due to volume, timing or frequency is considered unacceptable use of City resources.
- C. The personal use of social networking applications such as, but not limited to, Facebook, Twitter, Instagram and LinkedIn is not permitted during work time.

- D. Office computers may be used at home by an employee since use of authorized software increases an employee's knowledge of the software. During such use, unauthorized software may not be installed or used on the computer. The computer is only to be used by Sunset City employees. Installation of employee personal printers must be pre-authorized.
- 18.3.4 Printers, Copiers and Fax Machines are primarily reserved for Sunset use; however, personal copies and printed materials can be made at a cost of five cents per page, paid to Sunset City. Long Distance charges incurred as a result of a personal fax transmission shall be paid to Sunset City.
- 18.3.5 Sunset City vehicles are provided to enable employees to complete required tasks efficiently and effectively. As a general rule, vehicles should remain locked in a secure location when not in use. Sunset City vehicles should not be used for non-City purposes or to transport people not employed by Sunset City, unless the authorized use requires the transport of people (i.e. police vehicles). Personal use of City vehicles is limited to incidental uses as defined in 18.2.1.

Section 3

SUNSET CITY CORPORATION PERSONNEL POLICIES AND PROCEDURES - SECTION 19

EMPLOYEE RECOGNITION

- 19.1.1. Purpose –The purpose of this policy is to recognize employees for their years of service to Sunset City.
- 19.2.1. Policy:
 - A. The City may recognize employees' milestone years of service in 5 year increments from 5 years through 30 years.
 - B. The City may also purchase up to \$350 gifts for Department Heads, City Managers, Mayors, City Council Members or employees who voluntarily terminate their employment with the City. The City may also give a luncheon or open house when an employee retires or leaves the City.
 - C. The decision to give these gifts will be made by the Department Heads, Mayor and the City Council.
 - D. Funds for these gifts should be included in the Non-Departmental budget. Department Directors should inform the Budget Officer during budget preparation when they anticipate someone in their department will be recognized, retiring, or leaving during the upcoming year.

E. The following criteria should be used to estimate funding:

1. 5 years of service = \$50.00
2. 10 years of service = \$100.00
3. 15 years of service = \$150.00
4. 20 years of service = \$200.00
5. 25 years of service = \$250.00
6. 30 years of service = \$300.00
7. When a Department Head, City Manager, Mayor, City Council Member or employee retires or leaves the City, the City may give a luncheon, an open house, and/or up to \$350 in cash or a gift, depending on the circumstances.

19.3.1. Christmas Gifts - The Mayor, with the concurrence of the Council, shall determine each year if the City will give Christmas gifts to the City employees and the amount of those gifts.

Approved and adopted by the Sunset City Council this 15th day of October, 2019.

D. Howard Madsen, Mayor

Attest:

Susan R. Hale, Recorder



Sue Hale <shale@sunset-ut.com>

Personal Use of Public Property

Dustin Ericson <DEricson@dainesjenkins.com>
To: Sue Hale <shale@sunset-ut.com>

Wed, Oct 2, 2019 at 9:29 AM

Sue,

I made some suggestions based on the reading of the State Code. Coincidentally, I just finished working on this same policy for another City I with which I work. I wish I would have seen yours prior to working through theirs, because this is much more on point.

Again, please do not feel obligated to incorporate these suggestions.

Thanks,

Dustin D. Ericson
Daines & Jenkins, LLP
108 North Main Street
Logan, Utah 84321
(435) 753-4000
(435) 753-4002 (Facsimile)



CONFIDENTIALITY NOTE:

This email message may contain confidential information that is legally privileged. If you are not the intended recipient, do not read this email.

This email transmission and any documents, files, or previous messages attached to it may contain confidential information that is legally privileged. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are hereby notified that any disclosure, copying, distribution, or other use of any of the information contained in or attached to this transmission is **STRICTLY PROHIBITED**. If you received this transmission in error, please immediately notify the sender by reply email or telephone at (435) 753-4000 and destroy the original transmission and its attachments without reading or saving in any manner.