

CITY OF BLOOMFIELD, NEW MEXICO

**ORDINANCE NO. 472**

**AN ORDINANCE AMENDING ORDINANCE NO. 429, DATED MAY 26, 2009, RELATING TO ADOPTION OF THE CITY OF BLOOMFIELD EMPLOYEE HANDBOOK.**

WHEREAS, according to Section 3 of Ordinance No. 429, all amendments to the City of Bloomfield Employee Handbook must be made via amendments adopted by ordinance;

WHEREAS, the City of Bloomfield desires to amend the City of Bloomfield Employee Handbook by adding the following "Employee Cell Phone Use and Cell Phone Allowance Policy";

WHEREAS, the City intends that all other aspects of Ordinance No. 429 and the City of Bloomfield Employee Handbook remain unaltered and in full force and effect.

**THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF BLOOMFIELD THAT THE FOLLOWING EMPLOYEE CELL PHONE USE AND CELL PHONE ALLOWANCE POLICY BE IN FULL FORCE AND EFFECT UPON ADOPTION OF THIS ORDINANCE:**

**Policy:** The City of Bloomfield (City) recognizes the need for certain personnel to own and use cell phones to complete and enhance their job performance. This policy establishes the procedures for cell phone authorization, reimbursement, and use. Employees whose job duties include the frequent need for a cell phone may receive extra compensation, in the form of a cell phone allowance, to cover business-related costs on their personal cell phones. No further reimbursement for cell phone costs is available to employees who receive such an allowance. The City shall maintain a limited number of cell phones assigned to a specific department or piece of equipment. These and all cell phones are intended to be used only during working hours and personal use of these phones is strictly prohibited during scheduled working hours.

As a general rule, cell phones should not be selected as an alternative to other means of communication (e.g., land-lines, pagers, and radio phones) when such alternatives would provide adequate, but less costly, service to the City.

**Cell Phone Allowance**

**(a) Eligibility:** Employees eligible for a cell phone allowance generally include department heads, supervisors, and employees whose job duties regularly require emergency call back, irregular working hours, and/or other, job-related factors that require the employee to routinely utilize a cell phone to enhance his ability to perform his job duties. Department heads shall recommend which employees within their departments qualify for a cell phone allowance. The City Manager shall give final approval on all cell phone allowances.

**(b) Allowance Amount:** The standard, monthly, cell phone allowance amount shall be \$35.00. No, further reimbursement for cell phone costs is available to employees who receive an allowance.

**(c) Allowance Payment:** The approved, cell phone allowance will be paid in twelve (12), monthly allotments as part of the employee's second paycheck of each month and will be subject to all, applicable payroll taxes. This allowance does not constitute an increase to base pay, and will not be included in the calculation of percentage increases to base pay due to salary increases, promotions, etc. and does not affect the employee's retirement.

**Employee Responsibilities:** The employee must retain an active cell phone contract as long as a cell phone allowance is in place. The employee must provide his department head and the City's Information Technology Department with his current, cell phone number and immediately notify both parties if the number changes. Employees receiving a cell phone allowance are expected to carry their cell phones on their persons both on and off duty and respond when called for City business.

Employees may choose the cellular service provider and plan design of their choice. Because the employee owns the cell phone personally, and the allowance provided is taxable income, the employee may use the phone for both business and personal purposes as needed. Use of the phone in any manner contrary to City policies or local, state, and/or federal laws will constitute misuse, and will result in immediate termination of the cell phone allowance and/or disciplinary action up to and including termination.

If, prior to the end of the cell phone contract, a personal decision by the employee, employee misconduct, and/or misuse of the phone result in the cell phone allowance being discontinued or the need to end or change the cell phone contract, the employee will bear the cost of any fees associated with that change or cancellation. For example, if an employee resigns and no longer wants to retain the current cell phone contract for personal purposes, any cancellation charges will be the employee's responsibility.

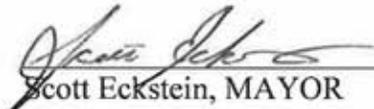
Any and all costs associated directly or indirectly with an employee's cellular telephone contract above the amount paid by the allowance are the responsibility of the employee. It is not expected that the amount of the allowance will always cover the total cost of the service plan, since it is expected that the communication device will be used for personal use as well as business use. The cellular telephone allowance does not permit the employee to violate the City's other policies regarding cell phone usage, including personal use of cell phones while on City time.

All decisions regarding the granting, denial, and removal of a cellular telephone allowance are entirely at the discretion of the City Manager and are non-grievable as well as non-appealable.

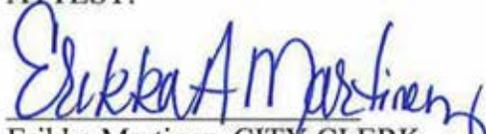
**Department Assigned Cell Phones:** City-owned cell phones assigned to departments shall be used on an as-needed basis during the work day and are intended solely for City business use. Personal use of such phones for anything other than a personal emergency shall subject the employee to disciplinary action and require appropriate reimbursement to the City.

**Inspection of Public Records Act (IPRA):** Employee-owned cell phones that are used for business purposes may be subject to IPRA unless any, applicable exceptions to IPRA apply. By applying for and accepting the cellular telephone allowance, the employee recognizes and agrees that the employee's information stored on his personal cell phone (including, but not limited to, e-mails, text messages, pictures, video, notes, etc.) is subject to IPRA. The employee, furthermore, agrees to cooperate with the City in responding to any, applicable IRPA requests regarding the employee's cell phone.

Passed, Approved, Signed and Adopted this 22 day of August, 2016.

  
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Scott Eckstein, MAYOR

ATTEST:

  
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Erikka Martinez, CITY CLERK

(SEAL)

