
(Name of local or special service district)
RULES AND REGULATIONS
PERSONAL USE OF PUBLIC PROPERTY

A. Purpose: This shall be known as the _____ (“District”) Personal Use of Public Property Policy, or the “Policy”. It has been adopted for the purpose of regulating the use of District-owned, leased, held, operated or managed equipment, vehicles, office supplies, devices, tools, facilities and other District-owned personal and real property (herein “District Property”).

B. Background/Effective Date: The Utah Legislature adopted, and the Governor signed into law, H.B. 163, with an effective date of July 1, 2019. H.B. 163 deals with the misuse of public funds and, more specifically, public property, inasmuch as public property was not previously included in the criminal statute to the same extent as public funds. Since the misuse of public property can result in criminal charges, including felony charges, the District desires to adopt this Policy to clarify what may constitute a misuse of District Property and to authorize the personal use of District Property under certain circumstances. Since the law which this Policy is intended to address is not effective until July 1, 2019, this Policy shall become effective upon the later of July 1, 2019 or the date this Policy is approved by the governing body of the District.

C. Definitions: For purposes of this Policy the following words will have the following meanings:

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

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

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

D. Personal Use:

1. Devices: Communication and other devices, such as mobile phones, landline phones, and computers, that are owned by the District 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, District 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.

2. Physical Facilities: Personal activities by public servants at District-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.

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

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

E. Subsequent Modifications/Higher Law:

1. **Policy Not Exhaustive:** The governing body of the District 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 District may apply. The District may vary from the Policy, subject to the application of applicable state and federal laws, if the circumstances so justify.

2. **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.