



STAFF REPORT

TOWN COUNCIL MEETING OF AUGUST 11, 2015

To: Town Council

From: Town Finance Director/Town Clerk

Subject: Administrative Policies and Procedures For Cellular and Wireless Devices; Computer, E-Mail and Internet Use; and Whistleblowers

Date: August 3, 2015

RECOMMENDATION

A motion to adopt a resolution approving Administrative Policies and Procedures for cellular and wireless devices; computer, E-mail and Internet use; and whistleblowers .

DISCUSSION:

The Placer County Grand Jury reviewed the Town's Administrative Policies and recommended that the Town implement a formal: cellular and wireless devices policy, computer, E-mail and Internet use policy, and whistleblowers policy. In reviewing the Town policies, staff determined that implementation of these policies was warranted.

The Grand Jury also recommended that the Town establish a regular schedule for reviewing these policies to assure they are current. The Finance Director and/or the Town Clerk will give all policies a cursory review each July and if no change is found the reviewer will sign and date the bottom of the policy. If there appears to be changes needed, the policy will be updated and brought to Council for approval.

CEQA

There are no CEQA issues involved with the policies.

FINANCIAL IMPLICATIONS

There are no financial implications.

Attachments: Resolution for cellular and wireless devices policy, computer, E-mail and Internet use Policy, and whistleblower policy .

TOWN OF LOOMIS

RESOLUTION NO. 15 -

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOOMIS APPROVING ADMINISTRATIVE POLICIES AND PROCEDURES FOR CELLULAR AND WIRELESS DEVICES; COMPUTER, E-MAIL AND INTERNET USE; AND WHISTLEBLOWERS

WHEREAS, the Placer County Grand Jury reviewed the Town Administrative Policies and Procedures and recommended that the Town of Loomis adopt the following policies for whistleblowers, cellular and wireless devices, and computer, e-mail and Internet use; and

WHEREAS, the Loomis Town Council has determined that the Administrative Policies and Procedures for whistleblowers, cellular and wireless devices, and computer, e-mail and Internet use are important to the smooth and consistent operations of the Town; and

WHEREAS, the Town Council has reviewed the attached policies and directs the Finance Director and/or the Town Clerk to give all policies a cursory review each July and if no change is found, to sign and date the bottom of the policy.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Loomis that the Administrative Policies and Procedures for whistleblowers, cellular and wireless devices, and computer, e-mail and Internet use (attached as Exhibit A) are hereby affirmed.

PASSED AND ADOPTED this 11th day of August, 2015 by the following vote:

AYES:
NOES:
ABSTAINED:
ABSENT:

Mayor

ATTEST:

Town Clerk



TOWN OF LOOMIS

ADMINISTRATIVE POLICES AND PROCEDURES

CELLULAR AND WIRELESS DEVICES POLICY

Resolution:

Effective Date:

PURPOSE

This policy outlines the use of personal cellular/wireless devices at work, the personal use of business cellular/wireless devices, and the safe use of cellular/wireless devices by employees while driving.

POLICY

It is Town policy that use of personal cellular phone devices shall be limited during the work day and Town cellular/wireless devices shall be utilized for business purposes only and in a safe manner.

PROCEDURES

A. Personal Cellular/Wireless Devices

Excessive use of cellular/wireless devices during the work day, regardless of the phone or device used, can interfere with employee productivity and be distracting to others. During paid work time, employees are expected to exercise the same discretion in using personal cellular/wireless devices as is expected for the use of any Town telephone or computer. Cellular phones may not be used at any worksite where the operation of the phone is or may be a distraction to the public or other employees.

1. Telephone Calls/Text Messaging: Employees are expected to make personal calls on non-work time when possible and to ensure that friends and family members are aware of the Town's policy. Flexibility will be provided in circumstances demanding immediate personal phone use.
2. Prohibited Activities: Any activity that violates Town policy, including, but not limited to accessing and/or distributing pornographic or harassing material.

B. Town – Provided Cellular/Wireless Devices

1. Cellular Phones: Where job or business needs demand immediate access to an employee, the Town may issue a Town-owned and serviced cell phone to an employee for work-related communications.
 - a) Personal Use: Occasional brief personal use is allowable, however, users should always use a landline telephone when available.
 - b) Text Messaging: Will be limited to business communication, as needed.
2. Reimbursement for Personal Use: If an employee's personal use of the Town's cellular phone results in a charge to the Town, the user will be responsible for reimbursing the Town. This includes charges for text messaging, long distance and/or roaming charges, overage charges, multimedia charges, and charges for directory assistance.
3. Cellular/Wireless Devices: In order to improve efficiency, the Town may issue tablet PCs, laptops, or similar devices to employees for business related purposes only.
 - a) Personal Use: Occasional brief personal use is allowable, so long as that use does not violate any Town policies, including the Town's Network, Internet, and Email policy.
 - b) Out of Town Use: Employees needing to use their Town issued wireless device while out of Town on business should check with their supervisor.

C. No Expectation of Privacy

Employees who are issued Town cellular phones and/or wireless devices understand that there is no expectation of privacy when using Town provided cellular phones and/or wireless devices. The Town has the right to review all records related to cellular and/or wireless devices including but not limited to phone logs, text messages, and internet usage logs. Users should further be aware that all records are subject to discovery under the Public Records Act.

D. Town Cellular Phones and/or Wireless Devices

Town issued cellular phones and/or wireless devices shall remain the sole property of the Town. Employees in possession of Town equipment such as cellular phones are expected to protect the equipment from loss, damage, or theft. Upon resignation or termination of employment, or at any time upon request, the employee may be asked to produce the phone for return or inspection. Employees unable to present the phone in good working condition within the time period requested (for example, 24 hours) may be expected to bear the cost of a replacement.

Employees who separate from employment with outstanding debts for equipment loss or unauthorized charges will be considered to have left employment on unsatisfactory terms and may be subject to legal action for recovery of the loss.

E. Safety Issues for Use of Cellular Devices

Employees whose job responsibilities include regular or occasional driving are encouraged to refrain from using a cellular device while driving. Safety must come before all other concerns. Regardless of the circumstances, including slow or stopped traffic, employees are strongly encouraged to pull off to a reasonably safe location and safely stop the vehicle before placing or accepting a call. If acceptance of a call is unavoidable and pulling over is not an option, employees are required to use hands-free options and are expected to keep the call short, refrain from discussion of complicated or emotional issues, and keep their eyes on the road. Special care should be taken in situations where there is traffic, inclement weather or the employee is driving in an unfamiliar area. Under no circumstances are employees allowed to place themselves at risk to fulfill business needs.

Employees whose job responsibilities do not specifically include driving as an essential function, but who are issued a cell phone for business use, are also expected to abide by the provisions above.

Text messaging, reading emails, writing emails, or accessing the internet while driving is not allowable under any circumstance.

Employees who are charged with traffic violations resulting from the use of a cellular phone while driving on duty may be subject to disciplinary action and personal liability resulting from such traffic violations and are responsible for paying the cost of the citation.

Violations of this policy will be subject to discipline, up to and including dismissal.

F. Special Responsibilities for Managerial Staff

As with any policy, management staff is expected to serve as role models for proper compliance with the provisions above and are encouraged to regularly remind employees of their responsibilities in complying with this policy.

TOWN OF LOOMIS

RECEIPT OF

CELLULAR AND WIRELESS DEVICES POLICY

Please read the policy carefully to ensure that you understand the policy before signing this document.

I certify that I have received a copy of the Town of Loomis's Cellular and Wireless Devices Policy. I understand that it is my responsibility to read and comprehend this policy. I have read and understand the content, requirements, and expectations of the Policy and I agree to abide by the policy guidelines. I understand that if at any time I have questions regarding the Policy, I will consult with my immediate supervisor or the Town Manager.

I agree to observe and follow the "Cellular and Wireless Devices" policy. I understand that failure to abide by the policy could result in the loss of cellular phone privileges and/or other disciplinary actions.

Employee Name (signature)

Date

Employee Name (please print)



TOWN OF LOOMIS

ADMINISTRATIVE POLICES AND PROCEDURES

COMPUTER, E-MAIL AND INTERNET USE POLICY

Resolution:

Effective Date:

PURPOSE

The purpose of this policy is to implement guidelines for the use of Town computer network resources, including internet, e-mail, and on-line information services.

POLICY

It is Town policy to guide the appropriate use of Town supplied computers and related equipment, networks, software, e-mail and Internet access by employees and contractors and to ensure Town computer resources are secure and reliable while enhancing the productivity, efficiency and effectiveness of Town operations. All files, including e-mails, are property of the Town and are subject to audit and review, even if sent as authorized incidental personal use of the computer. There is no expectation of personal privacy.

PROCEDURES

A. Application

All current employees and contractors (hereafter "covered individuals") who have access to the Town's computers and related systems and who work in departments and offices directly responsible to the Town Manager are covered by this regulation. It is requested that elective offices and other independent offices, commissions, boards, and departments also comply with this regulation.

B. Conditions of Employment/Service

The following conditions of employment/service apply to all covered individuals in their use of computers and related equipment, e-mail and Internet access:

1. All Town computers (including laptop/notebook computers) and related equipment are formal communication and analytic tools. They should be used for Town business-related purposes in a professional and courteous manner. Any use of Town computer equipment for personal purposes, including sending and receiving e-mails and Internet access, shall be limited, brief, and infrequent provided that the use does not directly or indirectly interfere with Town computer systems, or services, burden the Town with additional incremental cost, interfere with other Town computer users employment or other obligations to the Town, or reflect negatively on the Town or it's employees.
2. All files, including e-mails, are property of the Town and are subject to audit and review even if sent as authorized incidental personal use of the computer. There is no expectation of personal privacy. Town computers and related equipment/systems are the sole and exclusive property of the Town and may be monitored when the Town deems it necessary to do so.
3. Town e-mail users should use care when sending e-mail messages from Town supplied e-mail addresses. Messages should be professional. The text of any e-mail should be appropriate to be sent as a signed letter on Town letterhead. E-mail users should consider that certain e-mails may constitute electronic public records subject to inspection and copying under the Public Records Act.
4. Covered individuals should not have any expectation of privacy regarding internet access to websites accessed through Town computers and network systems.

5. The Following are restricted activities under this policy:

a) The Town prohibits unauthorized copying, transfer, or reproduction of Town owned software.

b) Covered individuals shall not access, take, copy or send data or files that disclose sensitive, personal, confidential or proprietary information without appropriate authorization.

c) Covered individuals shall not use Town computers and related equipment, Town e-mail or Internet access to create, send, forward, reply to, transmit store, display, copy, download, read, or print inappropriate material. This includes, but is not limited to, material that is: unlawful or illegal; obscene or pornographic; defamatory; threatening; offensive; or violates the Town's discrimination or harassment policies.

C. Violation of Policy

Covered individuals who violate this policy may have their computer and technology system usage and access, and related privileges, revoked or suspended, and may be subject to progressive disciplinary action, up to and including termination. Violations of local, state, and federal laws carry additional penalties.

D. Notification

All covered individuals are directed to acknowledge receipt of this policy by signing a "Receipt of Computer, Email and Internet Use Policy" form indicating they have received, read, understand, and will abide by its provisions. If a covered individual declines to sign a witness shall make a notation that the individual has received the information.

The original form shall be placed in the personnel file and a copy shall be given to the employee, or attached to a contractor's service agreement.

E. Responsibilities and Guidelines

Covered individuals are responsible for complying with this policy. Managers and supervisors are responsible for enforcing this policy.

F. Definitions

1. "Personal Computer" – means a microcomputer designed for individual use for applications such as word processing, financial analysis, data management, and graphic presentations and to access e-mail and the Internet.

2. "E-mail" – means messages entered into a personal computer or personal communications device and sent to a receiving personal computer or device. This refers to e-mail on the Town's network and on the Internet.

3. "Internet" – means a world-wide collection of publicly accessible networks linked together for the exchange of information and services.

4. "Independent Contractor" – means a person who contracts to supply certain materials or do certain work for a stipulated sum for the Town: not a Town employee.

TOWN OF LOOMIS

RECEIPT OF

COMPUTER, E-MAIL AND INTERNET USE POLICY

Please read the policy carefully to ensure that you understand the policy before signing this document.

I certify that I have received a copy of the Town of Loomis's "Computer, E-mail and Internet use Policy". I understand that it is my responsibility to read and comprehend this policy. I have read and understand the content, requirements, and expectations of the Policy and I agree to abide by the policy guidelines. I understand that if at any time I have questions regarding the Policy, I will consult with my immediate supervisor or the Town Manager.

I agree to observe and follow the "Computer, E-mail and Internet Use" policy. I understand that failure to abide by the policy could result in the loss of computer, e-mail and internet privileges and/or other disciplinary actions.

Employee Name (signature)

Date

Employee Name (please print)



TOWN OF LOOMIS

ADMINISTRATIVE POLICES AND PROCEDURES

WHISTLEBLOWER POLICY

Resolution:

Effective Date:

PURPOSE

The Town of Loomis strives to maintain a workplace with a high ethical standard of conduct in all activities and conduct its business in a fair, effective, efficient, and transparent manner. The Town must protect its assets and resources from fraudulent, illegal, and dishonest activities by protecting its assets and resources, by maintaining effective internal controls and by identifying and investigating any possibility of fraud or other improper activities. To this end, this Whistleblower Policy ("Policy") establishes procedures for Town employees and the Loomis community to report alleged illegal, fraudulent, or improper activity by Town employees and to assure that such reports do not result in retaliation by the Town.

POLICY

Community members and Town staff are encouraged to report good faith suspicions of misconduct by Town employees and any misuse of Town property or resources. Any Town employee who makes such a good faith report is protected against adverse employment actions by the Town for raising such allegations, and shall not suffer any reprisals or retaliation by the Town for making the report, whether or not the allegations are sustained. The whistleblower must exercise sound judgment to avoid baseless allegations. The intentional filing of a false report is itself considered an improper governmental activity which the Town has the right to act upon.

PROHIBITED ACTIVITIES

Any person should report information related to one of the following prohibited activities which includes, but is not limited to:

- A violation of Federal and State laws or Town ordinance
- Financial fraud
- Substantial or specific danger to the employee's or public's health and safety
- Unethical business conduct and practices

PROCEDURES

A. When to Report

A complaint filed under this Policy should be filed within 45 days of the date of the act or event which is subject of the complaint.

B. Whom to Report To

If a Town employee is making the report, all reports should first be made to the employee's supervisor, unless the report involves alleged misconduct of the supervisor. If the complaint is not against the supervisor, and action is within the supervisor's authority, the supervisor should take all actions necessary to curtail the behavior and determine the appropriate consequences and then inform the Town Manager. If the action is not within the supervisor's authority, the supervisor should immediately report the matter to the Town Manager.

If a Town employee is making the report that involves alleged misconduct of her/his supervisor, the employee should report the matter directly to the department head or the Town Manager.

If someone other than a Town employee is making the report, the report should be made to a department head or the Town Manager who will then follow up on the matter. To the extent possible, the identity of the whistleblower will remain confidential. However, the Town reserves the right to disclose the identity of the whistleblower, if the identity may have to be disclosed to conduct a thorough investigation, to comply with applicable laws or to provide individuals their legal rights of defense.

C. How to Report

Use of the "Whistleblower Complaint Form" is desirable. Submit the form to the following: Town of Loomis, Attention Whistleblower Program, P. O. Box 1330 (3665 Taylor Road), Loomis, CA 95650. Employees are encouraged to provide as much specific information as possible, including names, dates, places, the events that took place and the employee's perception of why the incident(s) may constitute a violation or misconduct.

PROTECTION FROM RETALIATION

A. Retaliation Prohibited

No Town employee, or any person acting on behalf of the Town, shall use or threaten to use any official authority to influence, restrain, or prevent any other person who is acting in good faith and upon a reasonable good faith belief as a whistleblower. No Town employee shall use or threaten to use any official authority or influence to cause any adverse employment action (including discharge, demotion, suspension, harassment, or other forms of discrimination) as retaliation against a Town employee who acts as a whistleblower in good faith and with reasonable belief that improper conduct has occurred. However, this Policy does not prohibit the Town from taking an adverse action for legitimate or non-discriminatory reasons due to a mere causal connection to the protected Whistleblower activity. Such legitimate or non-discriminatory actions may include discipline for a legal cause or refusing to hire/promote/transfer or to take any other legitimate personnel action based on inadequate qualifications or poor performance reviews.

B. Investigation of Complaints

Depending upon the nature of the complaint, the Town Manager or his/her designee will investigate the complaint to determine if misconduct and/or violation of the Policy has occurred. To the extent permitted by personnel privacy laws, the Town Manager or his/her designee will meet with the complainant to discuss the findings of the investigation and will use best efforts to ensure timely resolution of the matter.



TOWN OF LOOMIS

WHISTLEBLOWER COMPLAINT

3665 Taylor Road
Loomis, CA 95650
916-652-1840

Instructions: complete this form and return it to either a department head or Town Manager. This is a confidential format for reporting any wrongdoing. However, confidentiality may not be maintained if your report results in criminal prosecution and you are called upon to testify. Disclosure may also be required to conduct a thorough investigation, to comply with applicable laws or to otherwise provide individuals with their legal rights of defense.

Name: _____
(Optional)

Address: _____
(Optional)

Are you a Town of Loomis employee? Yes No

If yes, what is your position or relationship to the Town? _____

Work phone: _____
(Optional)

Home/cell phone: _____
(Optional)

1. Identify the person or persons against whom your allegations are made.

2. Describe the nature of your complaint, the incident(s) or event(s), date(s), time(s), and place(s). Attach additional pages to this complaint if necessary.

3. Identify others who may have observed or witnessed the above incident(s) or event(s).

4. Do you have any documents that support your allegation? Yes No

(Please list and attach copies)

Submit the completed form to the following: Town of Loomis, Attention Whistleblower Program, P.O. Box 1330, Loomis, CA