

SALT LAKE COUNTY COUNTY-WIDE POLICY ON
PRESERVATION AND PROTECTION
OF PUBLIC PROPERTY

Purpose:

This policy is designed to ensure **[FILL IN]:**

The objectives of this policy are to **[FILL IN]:**

Reference:

The policy and standards set forth herein reference the following:

Countywide policies 1015, 1035, 1035-A, 1304, 1350, and 1400-1.

All County Human Resource Policies.

Utah Code sections 11-57-104, 53B-7-106, 76-1-601, 76-6-513, 76-8-101, 76-8-402, and 76-8-404.

[CHECK AND EXPAND THIS]

1.0. Scope

All Salt Lake County agencies, bureaus, offices, departments, divisions, boards, commissions, institutions, laboratories, or othr instrumentalities of the county, as well as all Salt Lake County employees and contractors, consultants, volunteers, and others who perform a public function and are authorized to hold, spend, transfer, disburse, use, or receive public funds or public property.

2.0 Definitions

2.1 “Authorized personal use” means:

- a. The use of public property by a public servant, for a personal matter, if:
 - (i) The public servant is authorized to use or possess the public property to fulfill the individual’s duties as a public servant;

- (ii) The primary purpose of the public servant using or possessing the public property is to fulfill the individual's duties as a public servant;
 - (iii) At the time the public servant uses or possesses the public property for a personal matter, the County has a written policy in effect that authorizes the public servant to use or possess the public property for personal use in addition to the primary purpose of fulfilling the individual's duties as a public servant; and
 - (iv) The public servant uses and possesses the public property in a lawful manner and in accordance with the County policy described in 2.1(a)(iii); or
- b. The incidental use of public property for personal use by a public servant, if:
- (i) The public servant's incidental personal use or possession of public property does not violate any written policy of the County;
 - (ii) The public servant's incidental personal use or possession of public property does not create security risk to the County;
 - (iii) The public servant's incidental personal use or possession of public property does not disrupt or impede the business of the County;
 - (iv) The value provided to the County by the public servant's use or possession of the public property for a public purpose substantially outweighs the personal benefit received by the employee from the incidental personal use or possession of public property by the public servant;
 - (v) The public servant's incidental personal use or possession of public property does not result in costs charged to or financial obligations incurred by the County; and
 - (vi) The incidental use of public property for personal use by a public servant is not otherwise prohibited by law.

2.2 "Incidental use" means:

- a. Use of public property that is limited in scope, amount, or extent, or that is uncommon or infrequent, and that does not significantly detract from a public servant's performance of the individual's employment duties or obligations or provision of service to the public;

- b. Use of public property that does not result in costs charged to or financial obligations incurred by the County, and that is not reasonably likely to result in reputational damage to the County or any of its public officers or public servants; and
- c. Use of public property that is not reasonably likely to create a security risk to the County or any of its public officer or public servants, or to any public property that is owned, held, leased, or managed by the County.

2.3 “Possess” or “possession” means to have physical possession of or to exercise dominion or control over tangible property.

2.4 “Public officer” means:

- a. An elected official of the County; or
- b. An individual appointed to, or serving an unexpired term of, an elected official of the County.

2.5 “Public property” means:

- a. Anything of value, including real or personal property that is owned, held, leased, or managed by the County, including but not limited to office space, facilities, equipment, supplies, vehicles owned or leased by the County, desktop and laptop computers, tablets and mobile phones owned or leased by the County, hardware, software, data, storage media, electronic communications (including, but not limited to, e-mail, fax, phones, phone systems and voice mail), and networks. **[work on this definition]**
- b. “Public property” includes real or personal property described in 2.5(a) after the public property is transferred to an individual, public entity, or independent contractor of the County for the purpose of performing a public function or providing a program or service for or on behalf of the County.
- c. “Public property” remains public property while in the possession an individual, public entity, or independent contractor of the County for the purpose of performing a public function or providing a program or service for or on behalf of the County.

2.6 “Public servant” means:

- a. (i) A public officer;
- (ii) An appointed official, employee, consultant, volunteer, or independent contractor of the County; or

(iii) A person hired or paid by the County to perform a public function or provide a program or service for or on behalf of the County.

b. "Public servant" includes a person described in 2.6(a) immediately on the person's election, appointment, employment, contracting, or other retention or selection, regardless of whether the person has begun to officially occupy the position of a public servant of the County.

3.0 Prohibited Acts

3.1 It is unlawful for a public servant to:

- a. Appropriate public property to the public servant's use or benefit or to the use or benefit of another without authority of law;
- b. Loan or transfer public property without authority of law;
- c. Fail to keep public property in the public servant's possession until disbursed by authority of law;
- d. Knowingly keep a false account or make a false entry or erasure in an inventory or account of, or relating to, public property;
- e. Fraudulently alter, falsify, conceal, or destroy an inventory or account described in Subsection 3.1(d); or
- f. Willfully refuse or omit to transfer or relinquish, on demand, any public property in the public servant's possession, on the order of a competent authority or when the transfer or relinquishment is required by law.

3.2 Violations of 3.1 shall be consistent with state law except that a violation of 3.1 is punishable only as a class B misdemeanor if:

- a. The public servant's incidental use of public property constituted authorized personal use as defined in 2.1 and the costs charged to or financial obligations incurred by the County are less than \$500; and
- b. The public servant does not, within 30 days or such longer payment schedule as the County demands in its reasonable discretion:
 - (i) Reimburse the County the entire cost charged to or financial obligation incurred by the County as a result of the public servant's personal use of public property; and
 - (ii) Remit an administrative penalty in an amount equal to 50% of the

entire cost charged to or the financial obligation incurred by the County as a result of the public servant's personal use of public property.

- c. Notwithstanding any other provision in 3.2, the time period for repayment and remittance may be extended if the public servant appeals the finding of the County in accordance with the policies of the County, provided that all repayment and remittance obligations are satisfied within 30 days of the final appeal decision of the County if the finding is upheld on appeal.
- d. If all repayment and remittance obligations under 3.2 are timely satisfied by the public servant, and if it is the first time the public servant has engaged in authorized personal use as defined in 2.1 that resulted in costs charged to or financial obligations incurred by the County, then the public servant is not guilty of violating this section.

3.3 Notwithstanding any other provision of this section:

- a. The County may require repayment and remittance, as set forth in 3.2, for costs or financial obligations in any amount that are charged to or incurred by the County as a result of a public servant's personal use of public resources, regardless of whether criminal charges are filed; and
- b. A public servant may be subject to a civil or employment action for the public servant's personal use of public property that is not authorized personal use or that results in any costs charged to or financial obligations incurred the County.

3.4 A public servant is not guilty of violating this section when the public servant's incidental use of public property was authorized personal use at the time the use occurred and the personal use did not result in costs charged to or financial obligations incurred by the County.