

WASATCH COUNTY
COUNTY PROPERTY
ACCEPTABLE USE POLICY

WHEREAS, on or about March 25, 2019 Governor Herbert signed HB 163; and

WHEREAS, on HB 163 comes into effect on July 1, 2019; and

WHEREAS, HB 163 makes it so if a county elected official, an appointed official, a judge, consultant, independent contractor, or employee, (collectively, public servant) uses public property in more than an incidental manner for personal use or use of another, they may meet the elements of having committed a felony under Utah Code 76-8-402; and

WHEREAS, a felony is “a serious crime punishable for more than one year or by death” Black’s Law Dictionary; and

WHEREAS, under Utah Code Title 76, a third degree felony is punishable by a term of imprisonment of not more than five years and \$5,000; and

WHEREAS, Utah Code 76-8-402 allows for a public servant to use public property in a accordance with a written policy of the county; and

WHEREAS, the County Council believes that HB 163 as drafted makes it so public servants who are performing their duties in good faith may unwittingly be committing felonies; and

WHEREAS, the County Council desires to create guidelines that will ensure public servants are not at risk of unwitting committing felonies in their use of public property while ensuring public servants are using county property in a responsible manner; and

WHEREAS, the County Council believes the best way to accomplish this is the establish guidelines for use of Public Property, to create a mechanism for warning Public Servants if they are using the Public Property in a manner contrary to those guidelines, and only after continued use contrary to the guidelines after receiving a warning, are they considered to be misusing Public Property;

Now, Therefore, the legislative body of Wasatch County hereby amends the Wasatch County Personnel Policy as follows:

"Public officer" means:

- (a) an elected official of a public entity;
- (b) an individual appointed to, or serving an unexpired term of, an elected official of a public entity;
- (c) a judge of a court of record or not of record, including justice court judges; or
- (d) a member of the Board of Pardons and Parole.

"Public servant" means:

- (i) a public officer;
- (ii) an appointed official, employee, consultant, or independent contractor of a public entity; or

(iii) a person hired or paid by a public entity to perform a government function. Public servant includes a person described in Subsection (14)(a) 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.

"Public property" means real or personal property that is owned, held, or managed by a public entity. "Public property" includes real or personal property that is owned, held, or managed by a public entity after the real or personal property is transferred by the public entity to an independent contractor of the public entity. "Public property" remains public property while in the possession of an independent contractor of a public entity for the purpose of providing a program or service for, or on behalf of, the public entity.

This COUNTY PROPERTY ACCEPTABLE USE POLICY constitutes a “written policy of the public servant’s entity” for purposes of Utah Code 76-8-402(1)(b)(iii).

Public Servants are authorized to use Public Property of Wasatch County for personal use.

Public Servants are ENCOURAGED to use Public Property of Wasatch County in a manner in accordance with these ENCOURAGED GUIDELINES;

- that does not damage the property;
- that does not cost the county more than incidental amounts, which may vary according to historic use, custom, and what is considered normal personal use of employer property in the community;
- that does not interfere with use of the property as intended for the public use; and
- that allows employees who have been authorized to use county equipment for extensive personal use to do so without fear of being prosecuted.

THEREFORE, if the supervisor, county manager, or the County Council believes that a Public Servant is using Public Property in a manner contrary to the Encouraged Guidelines, the supervisor, county manager, or the County Council shall give the employee a verbal or a written statement that specifically informs the Public Servant that should not use the Public Property in the manner.

The Public Servant may appeal the verbal or written statement to the County Council if they believe their use of Public Property is in accordance with Encouraged Guidelines. They must appeal the written statement by giving the appeal to the Director of Personnel Management, the County Manager or the Chair of the Council within one week of actual receipt of the written or verbal statement. The Council shall with reasonable diligence hear the person who made the written or verbal statement, and the Public Servant, and shall make a decision on whether the use of the Public Property was in conformity with the Encouraged Guidelines, and shall inform those involved.

If, and only if, within one year of receiving a written statement that was either upheld by the county council, or was not appealed, the Public Servant uses Public Property in the same or in a substantially similar manner, will they be using Public Property in violation of Wasatch County’s use of public property policy. Only these will they be subject to disciplinary action pursuant to the Wasatch County Personnel Policy.

All county policies are hereby repealed and replaced to the limited extent that the contradict or interfere with this County Property Acceptable Use Policy. Federal contracts or laws, State contracts or laws, or contracts with third parties the County has entered into regarding the use of certain Public Property are not superseded by this COUNTY PROPERTY ACCEPTABLE USE POLICY.