

### **Minnesota Hands Free Wireless Communications Device Law – Effective August 1, 2019**

The new hands free law in Minnesota, [Chapter 11](#), expands current state law ([Minnesota Statutes, section 169.011, subdivision 94](#) and [Minnesota Statutes, section 169.475](#)) to ban using a “wireless communications device” to text, call, or access content while operating a motor vehicle which is in motion or a part of traffic on a street or highway. Drivers may, however, use voice activation or hands-free mode with single touch commands to call, text message, or access an application, but drivers may not type or scroll, and drivers may not hold the device with one or both hands. The law takes effect August 1, 2019.

[Learn more about the hands-free law from the Minnesota Department of Public Safety \(pdf\)](#)

The fine for the first violation of this law is \$50 plus court fees, and the fine for second or subsequent violations is \$275 plus court fees.

Suggested language is provided below for updates to county policies in response to the Hands Free law. Alternatively, county policies may include broad statements making clear that employees are required to follow all current laws when operating a motor vehicle, including law related to use of wireless communications devices. Regardless of how a county chooses to address or encompass the new provisions in policy language, it is recommended that additional communications and/or training be provided to ensure employees understand and are prepared to abide by the new requirements.

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## CELLULAR PHONE & OTHER WIRELESS COMMUNICATIONS DEVICE USE

### Purpose

This policy is intended to define acceptable and unacceptable uses of wireless communications devices, including but not limited to cellular telephones and tablets, while engaged in activities or duties related to County employment. Its application is to ensure wireless communications device usage is consistent with the best interests of the County without unnecessary restriction of employees in the conduct of their duties. This policy will be implemented to prevent the improper use or abuse of wireless communications devices and to ensure that County employees exercise the highest standards of propriety in their use.

[*Tip* – The County should work with its Information Technology Department to ensure appropriate policies are in place governing the provision, management, approvals, and security of wireless communications devices and accessories.]

### Policy

Wireless communications devices are intended for the use of County employees in the conduct of their work for the County. The County expects all employees who are required to drive as part of their job to drive safely and legally while on County business, including following the laws governing use of wireless communications devices while operating a motor vehicle.

Supervisors are responsible for the wireless communications devices assigned to their employees and will exercise discretion in their assigned use.

To ensure that wireless communications devices are used in a manner that supports and enhances effective County service and workplace performance, it is critical that the use of such devices:

- In no way limits the conduct of work of the employee or other employees.
- Does not result in any personal profit gained or outside employment served.
- Is in accordance with all applicable local, state, and federal laws and regulations.
- Is in accordance with County policies and conduct expectations.

### Procedure

All employees are expected to follow applicable local, state, and federal laws and regulations regarding the use of wireless communications devices at all times. Employees whose job responsibilities include regular or occasional driving and who use a wireless communications device for business use, are expected to refrain from using their wireless communications device while driving a motor vehicle, except in a legally permitted manner that will not detract from ability to safely operate the motor vehicle. Safety must come before all other concerns. Wireless communications devices shall not be used while operating machinery or heavy equipment.

- In accordance with Minnesota law, employees are required to use hands-free operations or lawfully stop in an area not designed or used for vehicular traffic and not obstructing traffic, or pull off into a parking lot and safely park the vehicle, before placing or accepting a call. Employees are encouraged to refrain from discussion of complicated or emotional matters and to keep their eyes on the road while driving at all times. Special care should be taken in situations where there is traffic or inclement weather, or the employee is driving in an unfamiliar area.
- Reading text messages, composing or sending text messages while holding the device, making or receiving phone calls while holding the device, emailing, video calling, scrolling/typing, accessing a webpage, or using non-navigation applications while driving is strictly prohibited.
- In accordance with state law, there is an exception to hands free cellular phone operations to obtain emergency assistance to report a traffic accident, medical emergency or serious traffic hazard or prevent a crime from being committed. There is also a state law exception for authorized emergency vehicles while in the performance of official duties.
- Employees who are charged with traffic violations resulting from the use of a wireless communications device will be solely responsible for all liabilities that result from such actions.

Supervisors may prohibit employees from carrying wireless communications devices during working hours, while performing specific work duties, or when entering certain work areas.

Use of public resources by County employees for personal gain and/or private use including, but not limited to, outside employment or political campaign purposes, is prohibited and subject to disciplinary action which may include termination and/or criminal prosecution, depending on the circumstances.

Incidental and occasional personal use may be permitted with the consent of the supervisor. Personal calls must not interfere with working operations and are to be completed as quickly as possible. Participating in excessive or disruptive personal calls may be addressed as a performance issue.

Employees should be aware that wireless communications device records about County business are subject to the Minnesota Government Data Practices Act whether the employee is using a County provided device or participating in a program that permits both County and personal use of the same device (such as an employee owned device with County reimbursement plan). What this means is that if a request were received, the County would be under the obligation to determine what information is public data and what information is private data and would need access to the employee's wireless communications device records and possibly the device itself in order to provide the data that is being requested.

The County reserves the right to inspect any wireless communications device used as part of County employment at any time in order to verify or maintain compliance with County policies, respond to data requests, or to monitor employee performance.

Employees who abuse or misuse wireless communications devices may be subject to disciplinary action up to and including termination of employment.

Document prepared by DDA Human Resources, Inc.

