***Because it is for guidance purposes only, this policy should be thoroughly reviewed by you and your solicitor or labor counsel to determine the applicability of the policy to your municipal entity and whether modifications to the policy are necessary to meet your needs or the requirements of state and federal law. Failure to thoroughly review this policy prior to enactment could create liability. There may, for instance, be provisions in this policy that conflict with an agreement between your municipal entity and a union representing your employees. In the event that your municipal entity has previously bargained away its managerial prerogative to implement this policy, bargaining would be required prior to implementation.***

# Purpose

This policy is designed to prevent motor vehicle crashes and resulting injuries to employees and the public and damage to municipal and public property that can be caused by distracted driving. The policy provides guidance for employees in addressing the use of cell phones while driving vehicles owned by [*insert name of EMPLOYER*], or, vehicles owned by employees while engaged in business on behalf of the [*insert name of EMPLOYER*]. Although cell phones are not the sole factor in causing distracted driving, studies show that cell phone use while driving significantly increases the risk of a motor vehicle crash. Given the pervasiveness of such devices and the fact that municipal entities may be liable for injuries caused by their employees while operating motor vehicles, the adoption and enforcement of policies specifically relating to cell phone use while driving is recommended.

# Brief Statement of Policy

While operating a(n) [*insert name of EMPLOYER*]-owned vehicle, and/or while in the performance of [*insert name of EMPLOYER*] business while driving any vehicle, employees shall not operate or use a cell phone. This policy shall apply whether or not hands-free communications equipment is used, and it shall apply to any form of communication of which the cell phone is capable, including but not limited to speech, text, and email. Operation of a vehicle is defined as including, but not limited to, when the vehicle is in motion, stopped in traffic, or at a traffic light or sign.

# Application

This policy shall apply to both [*insert name of EMPLOYER*]-owned/issued cell phones or cell phones owned by the employee. Employees shall not initiate calls, texts, emails, or any other form of electronic communication while operating [*insert name of EMPLOYER*]-owned vehicles, or personal vehicles while engaged in the performance of [*insert name of EMPLOYER*] business. Further, employees shall not receive or respond to incoming calls, texts, emails, or other electronic communications, and Employees shall not read texts, e-mails or other items or utilize their cell phones while driving in any way. For example, the act of reviewing the cell phone to identify the caller or sender of the communication while engaged in the operation of [*insert name of EMPLOYER*]-owned vehicles, or personal vehicles while engaged in the performance of [*insert name of EMPLOYER*] business, is prohibited.

# Exceptions

* 1. This prohibition shall not apply to the use of cell phones by law enforcement personnel in emergency response situations when reasonable considerations of officer and/or public safety require the use of private electronic communications devices. However, in all cases, the use of any electronic communications device shall not be permitted to interfere with the safe and lawful operation of the vehicle.
  2. Where employees require navigational assistance in the course of the performance of their duties, and the vehicle is not equipped with a GPS device, employees may use their cell phones for the limited purpose of navigation provided programming of the GPS must be completed while the vehicle is legally parked in a safe location. Cell phone use for any other purpose is prohibited.

# Emergency Situations

If an emergency situation requires that an employee must initiate or receive a call, text, email, or other electronic communication on a cell phone, the employee must first drive to a safe location, stop the vehicle, and place it in “park,” prior to activating the device, remaining there until the communication is completed. A safe location might include, but is not limited to, rest areas, parking lots, or designated parking areas. Stopping along the side of or on the shoulder of a major highway should not be considered safe, nor should any actions which amount to violations of the Vehicle Code.

# Violations

Violation of this policy may result in disciplinary action, up to and including termination of employment.