



County of Wayne Mobile Device Policy

PURPOSE:

Cellular phone technology is a valuable communication tool and is integral to the operations of county government. The voice functionality of cellular phones combined with other cellular features, such as messaging and access to numerous online resources, establishes the cell phone as a necessary and effective tool for certain employees of the County. The purpose of this policy is not to increase or diminish the appropriate and effective use of cellular devices, but rather to establish a multi-tiered program for managing cell phone use by employees of the County of Wayne.

Further, it is the desire of the County to comply with IRS regulations regarding the taxation of any non-cash fringe benefit. According to the IRS Code Section 280F(d)(4)(A)(v), created in 1989, cell phones are to be considered “listed property” and are designated by the IRS as lending themselves easily to personal use. Although the use of cell phones is much more widespread and economical today, they are susceptible to the substantiation rules applicable to taxable fringe benefits.

IRS rules require employers track personal calls made on an employer-provided cell phone. When an employer does not do this, the entire cost of the equipment and service becomes taxable to the employee. One of the primary purposes of this policy is to clearly differentiate between cell phones that are considered a taxable fringe benefit and those that are not.

DEFINITIONS:

Standard (or feature) Phone: A cell phone with the standard features to allow voice calling.

Stipend: A taxable sum of money paid on a regular basis included in an employee’s paycheck.

Smartphone: A mobile phone offering advanced capabilities beyond a typical cell phone, often with PC-like functionality. These advanced capabilities usually include email and Internet functionality and normally require a data package to be purchased with the service provider’s plan. At a minimum the smartphone must be able to send and receive messages through the County’s email server.

MULTI-TIERED PROGRAM OPTIONS:

The County of Wayne recognizes the importance and need for this valuable technology. The County of Wayne will provide cell phones to employees in specific positions to improve customer service and to enhance business efficiency. The purpose of the policy is to establish guidelines for the issuance and usage of the County of Wayne cellular telephones as well as procedures for monitoring and controlling costs as it relates to cellular telephone use.

Employees who hold positions that include the need for a mobile device (see eligibility criteria below) may receive a Stipend to compensate for business-related costs incurred when using their individually owned cell phones. In order to comply with IRS regulations, the County has developed a program to offer choices to County employees based on their need for cell phones within their current job grade, status and work requirements. Assignment of county-owned cellular devices or approval of a phone stipend is subject to review by the County pursuant to any change in employee status. Based on the program below, employees approved for cell phone usage may request the most appropriate option. Department heads must establish the need for cell phone and/or Smartphone functionality for each employee. The IT Department must be consulted by the department head to assist in decision making. IT will work with departments and individual employees as needed to ensure devices and services on County provided phones comply with the Americans with Disabilities Act (ADA). All requests for cellular service or benefits must be approved by the County Manager or their designee.

Option 1: Standard County Owned Phone

This is an accountable (non-taxable) plan with the following requirements:

- Cellular phone use on phones supplied by the county are restricted to county business.
- Personal cellular calls (outgoing and incoming) will only be allowed in limited and infrequent instances of family emergencies if calls cannot be made from a land line phone in a reasonable period of time. Emergency calls do not need to be reimbursed.
- As certain phone usages or features incur additional charges or costs and are not integral to the performance of county business, the IT Department, where appropriate and technically possible, may block certain usages or features on phones supplied by the county.
- Employees will be held primarily responsible for complying with the Cell Phone Policy. (Departments with shared phones will be allowed to develop their own internal cell phone review process). Employees' phone bills are reviewed by their supervisors each month.
- Phone bills are also audited regularly by the Finance Office for compliance.
- Cellular phones are the property of the County and as such are subject to inspection at any time to ensure usage has followed County policy.

Suitable For:

- Employee who makes no personal calls from County cell phone
- Situations where the phone is assigned to a position or to a piece of equipment instead of an individual employee
- Situations where more than one employee shares a phone

Option 2: Phone Stipend

This is a non-accountable (taxable) plan with the following requirements:

- Employee is paid a taxable stipend in each paycheck.
 - \$30.00 for a standard phone
 - \$60.00 for a Smartphone
- Employee purchases a phone and plan of their choice.
 - Smartphones must be chosen from a list of compatible networks and software.
 - The IT Department must be consulted before choosing a smartphone.
- Employee agrees to allow the County to publish their number internally for business purposes and to accept business calls and/or messages on the phone.
- Employee and carrier are responsible for technical support of the phone, plan, and functionality.
 - The IT department must be consulted to help setup the interface to the County email.
- Employee must retain an active cell phone contract as long as a cell phone stipend is in place. A copy of the invoice may be requested yearly to verify the plan is active.
- If cell phone stipends are discontinued for budgetary reasons, a 90-day notice of such termination will be given by the County.

Suitable For:

- Employee who maintains a cell phone for personal use and does not desire to carry two phones
- Employee who needs constant communication with customers and co-workers via voice, email, and other messaging features for continuity of service

Procedure:

An employee choosing either **Option 1** or **Option 2** should complete a cell phone request form. For situations in which a phone is assigned to a position or to a piece of equipment, the department head or assigned staff may submit the request. The request should be forwarded to the employee's department head for approval and then to the IT Department for review. The request will then be reviewed for approval by the County Manager or Assistant County Manager. Each request for **Option 2** must include the cell phone number assigned to the phone and the name of the carrier supplying the service. Once the request has been approved by the County Manager or his designee, the IT Department will forward the request to the Finance Office for processing. The IT Department will then be available to help setup smartphones selected from **Option 2** to interface with the County network.

The County of Wayne, will over the duration of an employee's career, replace one in-contract phone at the County's expense in the event the employee loses or damages the device. Thereafter, the employee will bear the expense of any replacement costs or upgrades to their cellphone and/or contract that is outside the normal terms of agreement. The County will also provide a smartphone screen protector and ruggedized case to be used on all County-owned phones.

POLICY FOR USE OF CELLULAR DEVICES IN VEHICLES:

County employees utilizing mobile devices in County vehicles or utilizing mobile devices in their personal vehicles while conducting County business are expected to use such devices in compliance with all current state and local law and the County Vehicle Policy and in a manner that does not jeopardize the safety of the employee or others. As more county drivers are using cellular phones, it is important both for safety and for the image of county drivers that common sense and courtesy be followed in using cellular phones. Supervisors will have the authority to restrict or prohibit use of cellular phones at any time on the job when they consider such situations and use may present a safety hazard to the employee, co-worker, contractors, and/or to the general public and private property. Sending and/or receiving text messages is prohibited while operating any vehicle

The following guidelines are provided for the safe use of cellular phones in County vehicles or in personal vehicles conducting County business:

- A) Voice mail service and hands-free equipment for the phone are the only allowable means of phone use while driving.
- B) It is strongly recommended, if possible, to use your cellular phone when parked, or have a passenger use the phone. Conversations should be kept to a minimum.
- C) If your phone rings when you are driving, especially during hazardous conditions, let your cellular voice mail service take the call and listen to the message later when you are parked, or pull over before answering if traffic conditions permit.
- D) Suspend conversations during hazardous driving conditions or situations.
- E) Let the person to whom you are speaking know that you are driving and that the call may be suspended at any time.
- F) Do not take notes or look up phone numbers while driving. As a driver, your first

responsibility is to pay attention to the road.

G) Attempt to dial and place all calls when you are parked. If you are stopped at a traffic signal or stop sign, you are still considered by the law to be driving; you must pull off the roadway and be parked to use a hand-held phone.

H) When possible, place your calls before you begin your trip, or call when your vehicle is parked. If you absolutely must dial a number while driving, assess the traffic and dial only a few numbers at a time.

I) Learn and use the pre-programmed number dial features of your phone. Practice using this feature for commonly dialed numbers before driving so you are familiar with the procedures.

J) DO NOT engage in stressful or emotional conversations while driving. A stressful or emotional phone conversation while driving is distracting and potentially dangerous. If necessary, suspend the phone conversation.

K) EMERGENCIES – Please do use your cellular phone to call for help or to help others in emergencies. If you see an emergency where lives are in danger call 9-1-1 and give the exact location and information to the 9-1-1 operator. Employees are not expected to offer additional assistance beyond calling for help.

PRIVACY OF CELL PHONE RECORDS

Both the nature of electronic communications and the public character of local government made cell phone uses less private than users may anticipate. As such, County employees should be aware that federal and state laws and County policies, guidelines, and regulations may limit the protection of certain aspects of individual privacy in connection with the use of a cell phone under this Policy. For example, in certain circumstances, the County may permit the inspection, monitoring or disclosure of phone records and text messages (including content and the cell phone numbers of calls or texts received from a cell phone, and a cell phone user's location at a particular time), consistent with applicable local, state, and federal laws, by County personnel. The County and its employees may be required to disclose phone records, text messages, and other electronic data and documents (including cell phone user locations at particular times, phone numbers called or texted or from whom the County employee received calls or texts, or contents of text messages sent or received) pursuant to North Carolina public records laws, court order or state and federal laws.

REQUIREMENT FOR COMPLIANCE WITH POLICY PROVISIONS

All employees who wish to receive cell phone privileges from the County of Wayne under this policy must agree to abide by all provisions of this policy. Any employee found to be out of compliance with the provisions of this policy may have their cell phone privileges revoked and be subject to other disciplinary measures.

County of Wayne Mobile Phone Request Form

Employee Name _____ Employee # _____

Department _____ Position _____

Cell Phone Number _____

1. Reason(s) for request:

- Job duties and responsibilities require me to spend at least 50% of the workday away from my duty station; or,
- I work in a public safety capacity and routinely function in a command or field coordinator role for actual emergency incidents or rehearsals for emergency incidents;
- I routinely communicate or receive time sensitive and confidential information; or
- Other (explain in detail): _____

2. Option Requested:

- Option 1:** County-owned mobile phone
(Attachment C must be signed)
- Option 2:** Monthly Mobile Phone Stipend
(Attachment B must be signed) \$30 \$60

By signing below, I certify that I have read the County of Wayne’s Mobile Phone Policy and agree to abide by its terms during my employment.

Employee Name: _____ Department: _____

Employee Signature: _____ Date: _____

3. Departmental Approval

I have reviewed the above request and agree that the employee should be provided a mobile phone for the reasons stated above.

Department head Signature: _____ Date: _____

Approved by IT Department: Yes No

Signature: _____ Date: _____

Attachment B

County of Wayne
Mobile Phone Stipend Agreement

The County of Wayne (County) shall provide a stipend to employees who use their personal mobile phone for County purposes in accordance with the Mobile Phone Policy, as the same may change from time to time. Mobile phone stipends shall be paid by the County as part of the regular paycheck in an amount approved by the County Manager. The following rules and limitations shall apply to each employee receiving a mobile phone stipend:

The employee must obtain his/her own contract or agreement with the Mobile Phone Company or carrier (the "carrier") in his/her own name and not on behalf of the County. The employee is solely responsible for the terms of any contract or agreement entered into with such carrier and shall not obligate or enter into any agreements on behalf of the County. Employee shall hold the County harmless from any liability or responsibility for payments, replacement costs, or other obligations relating to the relationship with such carrier, specifically including but not limited to fees and contractual payments remaining on a contract following separation of the employee from the County's employment.

The employee must at all times keep such mobile phone account in good standing and the mobile phone shall be in operation and available to receive and make telephone calls for County business at all times. Failure to maintain the account in good standing shall be grounds to immediately discontinue the employee mobile phone stipend.

Upon acceptance of the monthly stipend, the employee agrees to make all County business related mobile phone records related to such account available for inspection by the County within 48 hours of its request for such records.

Use of a mobile phone by employees during work hours shall be primarily for work purposes. The County understands that on occasion a personal call may be made or received during work hours; however, repeated personal mobile phone use during work hours shall be cause for immediate termination of the mobile phone stipend and for disciplinary action against such employee for engaging in non-work activities during regular work hours.

Any additional features and options added to the mobile phone plan by employee shall also be the sole responsibility of employee and employee shall hold the County harmless for any such liability or responsibility for the cost of such features.

I understand that this agreement shall be in effect indefinitely. Should an employee receiving a mobile phone stipend be terminated or otherwise separated from employment with the County, the mobile phone stipend shall end immediately. Upon separation of employment with the County, the employee agrees to make available to the County, upon request, any and all County business related information and/or data residing on his/her personal mobile phone and any information or data initiated from or received on his/her personal mobile phone whether stored on the phone itself or some other locale.

I have read, understand, and agree to these conditions for receiving a mobile phone stipend from the County of Wayne.

Employee Name (Print): _____

Employee Signature (Sign): _____ Date: _____

Attachment C

County of Wayne
County Owned Mobile Phone Agreement

The County may provide County owned mobile phones and/or wireless communication devices to employees to use solely for County business when deemed necessary for the employee to perform his/her essential job functions in accordance with the Mobile Phone Policy as the same may change from time to time. The following rules and limitations shall apply to each employee receiving a County owned mobile phone.

Use of a mobile phone by employees during work hours shall be primarily for work purposes. The County understands that on occasion a personal call may be made or received during work hours; however, repeated personal mobile phone use during work hours shall be cause for immediate termination of the County owned mobile phone and for disciplinary action against such employee for engaging in non-work activities during regular work hours.

Unless approved by a Department head, an employee may not use a County owned mobile phone or wireless communication device for text messaging, instant messaging, or any data consuming applications for personal or non-County reasons (e.g., ring tones, music, games, etc.)

The use of mobile telephones to transmit or receive inappropriate communication is strictly prohibited. Inappropriate communication includes, but is not limited to, discriminatory, hostile, suggestive, obscene, harassing, or otherwise unsuitable language and content as stated in the County’s Personnel Policy.

Any employee that does not adhere to County procedures for using mobile phones, may lose the right to use a County owned mobile phone and may be subject to disciplinary action up to and including dismissal as stated in the County’s Personnel Policy.

I understand that:

- I am responsible for the care and maintenance of County owned mobile devices.
- Any device must be secured and its whereabouts known at all times by the user.
- I am required to immediately report the loss or theft of the County-owned mobile device to my Department head. The Department head will contact the service provider in order to prevent unauthorized use and if necessary order a replacement device.
- I may be responsible for reimbursing the County for the costs incurred as a result of the loss or damage due to negligence. Departments will be charged for replacement phones if the phone was damaged during the regular course of work related duties and the employee was exercising reasonable care.
- I am responsible for making arrangements for the repair of County owned mobile device with the approval of my supervisor.
- I shall use proper safety procedures at all times when using a mobile phone, but especially while operating equipment, driving on County business, or performing similar duties.
- I shall return County owned mobile phone and all equipment to the department head or supervisor upon separation of employment with the County. Failure to do so could result in my final pay being garnished for the cost of replacing the mobile phone at the current market rate.

I have read, understand, and agree to these conditions for receiving a County owned mobile phone from the County of Wayne. I understand that this agreement is in effect until my employment ends or until my duties change.

Employee Name (Print): _____

Employee Signature (Sign): _____ Date: _____