

| COUNTY OF SAMPSON POLICIES AND PROCEDURES |          |                        |                   |        |
|---|----------|------------------------|-------------------|--------|
| Policy Number:                            |          | Title:                 | Cell Phone Policy |        |
| Date of Adoption:                         | 1/6/2014 | Date of Last Revision: | 1/6/2014          | Page 1 |

**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 Sampson.

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 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 capable of sending and receiving messages through the County’s email server.

Personal call: A call made by a County employee that is personal in nature and not related to County of Sampson business. The term personal call also includes personal text messages.

Emergency personal call: An infrequent personal call that is of an urgent nature where using a County owned cell phone is the best option available.

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**MULTI-TIERED PROGRAM OPTIONS:**

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 may 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 his designee.

| Tier 1: Standard County Owned Phone  |
|--|
| <p>This is an <u>accountable</u> (non-taxable) plan with the following requirements:</p> <ul style="list-style-type: none"> <li>▪ Cellular phone use on phones supplied by the county are restricted to county business.</li> <li>▪ 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.</li> <li>▪ 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.</li> <li>▪ 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.</li> <li>▪ Phone bills are also audited regularly by the Finance Office for compliance.</li> <li>▪ 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.</li> </ul> <p>Suitable For:</p> <ul style="list-style-type: none"> <li>▪ Employee who makes no personal calls from County cell phone</li> <li>▪ Situations where the phone is assigned to a position or to a piece of equipment instead of an individual employee</li> <li>▪ Situations where more than one employee shares a phone</li> </ul> |

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### Tier 2: Phone Stipend

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

- Employee is paid a taxable stipend in each paycheck.
  - \$45.00 for a standard phone
  - \$85.00 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 may 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.
- Employee will be responsible for all costs related to the phone including accessories.
- If through no fault of the employee the County should terminate an employee's cell phone stipend, the County shall be responsible for any costs or fees associated with contract termination.
- 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 **Tier 1** or **Tier 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

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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 **Tier 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 **Tier 2** to interface to the County network.

**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 at all 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.

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- 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 Sampson under this policy must agree to abide by all of the 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.