

Duplin County Portable Communication Device Policy

Duplin County may provide a portable communication device such as a cell phone, a walkie-talkie, or a pager, hereafter called “device”, to an employee for business use. A county-provided device is considered county property and should be treated as such.

An employee’s personal device that is damaged/lost at work will not be replaced or repaired by the County.

Business use includes **county-related** calls during the employee’s scheduled work hours, to include after hours, emergency hours, and hours while attending county sponsored training, conferences, schools, etc.

Personal use of a county provided device is **prohibited** for all incoming and outgoing calls, text messages, picture messages, easy edge, or any other service county device provides. Personal use of a county provided device is considered a taxable fringe benefit to the employee per IRS Codes noted below.

The IRS requires that use of each device be substantiated. Specifically, “**this means that unless the employer has a policy requiring employees to keep records, or the employee does not keep records, the value of the use of the phone will be taxable income to the employee.**”

In an effort to substantiate how the device was actually used and to allow the employee to identify/document personal use, if it occurs: Duplin County **requires** all employees assigned a county portable communication device: to review the monthly bill for their device; to highlight personal incoming or outgoing calls, text messages, or any other personal use identified on the bill; to initial/sign and date the bill; and to return the bill to accounts payable, at least five working days before due date of the bill. If personal items are identified, the employee must reimburse the County when returning the bill for the prorated personal portion of the monthly bill, plus additional device charges for personal use, plus the employee’s matching share of social security.

To confirm compliance with this policy, audits of device bills will be performed. Any requirement of this policy not followed by the employee assigned the device, will be considered a violation of this policy. Any findings of personal use, not identified by the employee, will be considered an intentional violation of this policy.

Any audit finding will result in the following:

1st Violation: The 1st violation will be reported to the Department Head and the County Manager. The County Manager will issue a written notice to the employee identifying a violation of the County Portable Communication Device Policy, which may include notice that records were not attached to the bill returned to accounts payable or may include a request of reimbursement within three days of dated notice because of identified personal use. Notice will include evidence supporting a personal use violation. Notice will inform the employee that any future violations of the “Portable Communications Devices Policy” may be considered unacceptable personal conduct, which may result in disciplinary action up to and including immediate termination of

employment. The written notice will be placed in the employee's personnel file. The employee will reimburse the County for the prorated personal portion of the device's monthly billing, plus additional device charges for personal use, plus the employee's matching share of social security. The prorated personal portion of the billing plus additional charges for personal use will be added to the employee's taxable wages/fringe on their W-2. Failure to promptly reimburse the County for personal use of county device may result in legal action being initiated or may result in disciplinary action being taken which may include immediate termination of employment for unacceptable personal conduct based on the failure to follow the Portable Communication Device Policy and the failure to reimbursement the County per the policy.

2nd Violation: The 2nd violation will be reported to the Department Head and the County Manager. The device will be removed from the employee. The County Manager will issue a written notice to the employee identifying a violation of the "Portable Communication Device Policy", which may include a request of reimbursement within three days of dated notice. Notice will include evidence supporting a personal use violation. The employee will receive notice of a pre-dismissal conference with the Department Head and the employee will receive a written notification of dismissal per Article VII Section 9 of the Duplin County Personnel Policy, "Dismissal for Personal Conduct", specifically (b) (4)"the willful violation of known or written work rules" with the violation referencing the failure to follow noted items of the "Portable Communication Device Policy". The employee will reimburse the County for the prorated personal portion of the device's monthly billing, plus additional charges for personal use, plus the employee's matching share of social security. Failure to promptly reimburse the County for personal use of county device may result in legal action being initiated. The prorated personal portion of the billing plus additional charges for personal use will be added to the employee's taxable wages/fringe on their W-2.

IRS Codes

IRS Codes IRC 132(d), 274(d), 280F (d) (4) references "listed property", i.e., cell phones, pagers, other communication devices. This listed property's business usage is excludable from the wages of the employee as a working condition fringe benefit. This listed property's personal use is included in the wages of the employee as taxable income. **If substantiation requirements are not met, ALL device use is included in the taxable wages of the employee.**

Substantiation requirements: records of business and personal use must be kept by the employee in order to determine whether the value of any of the use is included in the employee's wages. Employee should retain supporting evidence of business calls that should be submitted to the employer monthly. At a minimum the employee should keep a record of each call and its business purpose.

READ and UNDERSTOOD,

Employee Signature

Date

Employee Printed Name

County Official

Date