



# CITY OF FINDLAY, OHIO

## Cell Phone Policy

Effective June 1, 2008

### BACKGROUND

The City has provided city-paid cell phones and other communication equipment (air cards) to certain employees to aid in the performance of their duties. These items are considered "listed property" by definition of the Internal Revenue Service (IRS). Since the property lends itself to personal use, strict substantiation requirements are in place. According to the IRS, the use of a cell phone by an employee is viewed as a fringe benefit, which must be taxed when it is used in any capacity for personal use.

The purpose of this policy is to ensure that the City is not in violation of federal mandates for the use of public funds. This policy was created to address the needs of users while complying with IRS requirements.

The IRS requires that documentation for business and personal calls be extremely detailed. Without detailed documentation, the IRS can declare that all use is personal and should be taxed as wages, even if the calls were primarily for business use. However, receiving a taxable allowance for any individually owned cell phone removes the detailed documentation requirement.

### POLICY

To be compliant, the City will no longer have City-owned cell phones. Employees that are deemed to be required to carry a cell phone will receive a monthly taxable cell phone allowance. The department supervisor and Mayor, Service Director, or Safety Director will determine whether an individual demonstrates the need of having a cell phone as an integral instrument in performing their job and they could not effectively carry out their job responsibilities without it.

A cell phone allowance is justified for at least one of the following criteria:

- The employee is a key staff member needed in the event of an emergency
- The employee is frequently away from access to traditional land-based phone services
- The employee is involved in frequent off hours/on-call activity
- The nature of the employee's work is critical to the operation of the City and immediate response is required
- The employee's assigned work requires substantial travel
- The anticipated level of business use is significant

If the employee's job duties do not include the frequent need for a cell phone, then the employee is not eligible for an allowance to cover cell phone expenses. Such employees may request reimbursement for the actual extra expenses of business calls made using their own cell phone. However, expenses made for minutes included in the plan will not be reimbursed.

The allowance rate will be reviewed each year based upon the required level of regional coverage, service, and minutes needed for City business. The allowance will be designed to cover the employee's

projected business related expenses only. Cost of basic equipment required, and the employee's cell phone use related to business will be considered. The amount will be determined by surveying the area's cellular providers to get an average cost of the services the City requires. Amounts for internet access via cell phones and text messaging will not be included in the basic allowance. If the Mayor, Service Director, or Safety Director determines that internet access or text messaging is needed, a different allowance amount will be calculated for those services.

Payment of the cell phone monthly bill will be the responsibility of the employee. The employee will be free to choose the cellular provider and create a plan with that provider as they see fit for their business and personal usage. Any services beyond the basic service deemed a requirement by the City shall be a cost borne solely by the employee.

Requests for allowances (along with proof of an active phone which could be copy of an agreement or portion of a recent phone bill with the cell number listed) will need to be submitted annually in October to be considered for monthly allowances in the following year. The October deadline allows for the department supervisor to budget for the appropriate expenses for the next fiscal year. The department supervisor and the Mayor, Service Director, or Safety Director will need to approve the request and forward to the Auditor's Office for the allowance to continue.

The allowance does NOT affect the base pay for the employee and is not included in the calculation of longevity, overtime, or cost of living increases. The allowance will be paid in the first paycheck of the month and it is subject to federal, state, local and Medicare taxes. This amount is not pensionable under either the Ohio Police and Fire Pension System or Ohio Public Employees Retirement System. The employee could be asked to prove that the cell phone number is active at any time upon request of a supervisor, Mayor, Service Director, Safety Director, or Auditor's Office. If at any point it is deemed that an employee is receiving an allowance for a cell phone that is not active, the employee could be responsible of repayment of the allowance and subject to disciplinary action, including but not limited to suspension or termination.