

**Yellow Medicine County Board of Commissioners
Policy Manual**

Policy Statement

TITLE

Cell/Smart Phone Policy

CODE

702

REFERENCE

NA

PERSONNEL RESPONSIBLE

County Employees, Elected Officials

EFFECTIVE

8-26-08

AMENDED

07-23-19

POLICY

702.100 PURPOSE – To define the cellular telephone usage by employees to encourage the enhancement of communications while ensuring efficient, safe and high-quality customer service to the citizens of Yellow Medicine County.

702.200 CELL PHONE SERVICE – All county contracts for Cell / Smart phone service will be managed by the IT Department. Changes to existing service or purchase of new Cell / Smart phones will be done by the IT Coordinator. County contracts for cellular telephone service shall require monthly statements of call usage.

702.300 PROCESS – The Department Head will determine which position(s) in their department require a Cell / Smart phone and whether the needs are best served through the allocation of a county-purchased cell phone or through a Cell / Smart phone reimbursement for the employee's use of their personal Cell / Smart phone. Department Heads shall determine the type of phone purchased and the necessary features that phone should have. Employees that receive a reimbursement must maintain the type of Cell/Smart phone coverage and service that is reasonably related to the needs of conducting County business, and the reimbursement must be reasonably calculated not to exceed expenses the employee actually pays for maintaining the Cell/Smart phone.

Department Heads shall use the following substantial business reasons for determining the purchase of Cell / Smart phones for employees or reimbursement for use of personally owned Cell / Smart phones.

1. Purchase of a county owned cell phone, equipment and plan for employees or a non-taxable reimbursement up to \$30/month for use of a personal phone:
 - a. Employee travels frequently on county business outside the office; and
 - b. Employee frequently needs to maintain communication for work related matters while off-site or outside of normal working hours.
2. Non-taxable Reimbursement up to \$10/month for use of a personal cell phone:
 - a. Employee needs to maintain communication for work related matters while off-site or outside of normal working hours; or
 - b. Employee is concerned for personal safety while conducting County business off site.
3. Purchase of a county owned Smart phone, equipment and plan for employees or a non-taxable reimbursement up to \$45 / month for use of a personal Smart phone:
 - a. Employee travels frequently on county business outside the office; and
 - b. Employee frequently needs to maintain communication for work related matters while off-site or outside of normal working hours; and
 - c. Employee frequently needs to access information such as email, Internet, contacts, calendar, etc. while away from the office.

702.400 COUNTY OWNED CELL / SMART PHONE USE – Employees using County owned Cell / Smart phones should limit the phone to business use when at all possible. If the employee must use the Cell / Smart phone for personal calls these calls should be for emergency purposes or occasional personal calls. Employees shall reimburse the County for personal use resulting in costs that exceed phone and/or data plan costs paid for by the County. Any misuse of a county Cell / Smart phone will subject the employee to discipline procedures as contained in the County Personnel Policy or applicable labor agreements.

Misuse includes, but is not limited to:

1. Making calls of a threatening or inappropriate nature.
2. Making excessive personal calls.
3. Inappropriate use of Smart phone internet access or email.

702.500 PERSONAL CELLULAR PHONE USAGE IN THE WORK PLACE – While at work employees are expected to exercise the same discretion in using personal cellular phones as is expected for the use of county issued cellular phones. Excessive personal calls during the work day, regardless of the phone used, can interfere with

employee productivity and be distracting to others. Employees are therefore asked to make personal calls before and after work and during your break and lunch periods. Employees are asked to keep their phone on silent or vibrate mode while in County buildings. Employees with camera cell / smart phones are prohibited from taking pictures inside County buildings.

702.600 EMPLOYER RESPONSIBILITY – Department Heads shall monitor cellular phone needs and usage for their staff and make appropriate decisions and authorizations based on this policy and what is in the best interest of the County. The County Administrator is responsible for making decisions when it involves exceptions, discrepancies or interpretations of this policy.

702.700 EMPLOYEE RESPONSIBILITY

1. Employees are required to minimize costs whenever possible.
2. If cellular equipment is lost or stolen, the employee must immediately notify their Department Head and/or Supervisor who then must immediately notify the IT Coordinator.
3. All employees are expected to follow applicable local, state, and federal laws and regulations regarding the use of wireless communications devices at all times. Employees whose job responsibilities include regular or occasional driving and who use a wireless communications device for business use, are expected to refrain from using their wireless communications device while driving a motor vehicle, except in a legally permitted manner that will not detract from ability to safely operate the motor vehicle. Safety must come before all other concerns. Wireless communications devices shall not be used while operating machinery or heavy equipment.
 - In accordance with Minnesota law, employees are required to use hands-free operations or lawfully stop in an area not designed or used for vehicular traffic and not obstructing traffic, or pull off into a parking lot and safely park the vehicle, before placing or accepting a call. Employees are encouraged to refrain from discussion of complicated or emotional matters and to keep their eyes on the road while driving at all times. Special care should be taken in situations where there is traffic or inclement weather, or the employee is driving in an unfamiliar area.
 - Reading text messages, composing or sending text messages while holding the device, making or receiving phone calls while holding the device, emailing, video calling, scrolling/typing, accessing a webpage, or using non-navigation applications while driving is strictly prohibited.
 - In accordance with state law, there is an exception to hands free cellular phone operations to obtain emergency assistance to report a traffic accident, medical emergency or serious traffic hazard or prevent a crime from being committed. There is also a state law exception for authorized emergency vehicles while in the performance of official duties.

- Employees who are charged with traffic violations resulting from the use of a wireless communications device will be solely responsible for all liabilities that result from such actions.

Supervisors may prohibit employees from carrying wireless communications devices during working hours, while performing specific work duties, or when entering certain work areas.

3. If a cellular phone needs to be replaced, the old cellular phone and accessories must be returned to the IT Department.
4. County issued cellular phones must be returned to the County upon termination of employment in order for the termination of employment to be considered “in good standing”.
5. Employees who access County messaging infrastructure using an individually-owned mobile device must sign and agree to the terms and conditions of the attached “Access Agreement for Approved and Authorized Individually Owned Mobile Device”.
6. Employees should be aware that wireless communications device records about County business are subject to the Minnesota Government Data Practices Act whether the employee is using a County provided device or participating in a program that permits both County and personal use of the same device (such as an employee owned device with County reimbursement plan). What this means is that if a request were received, the County would be under the obligation to determine what information is public data and what information is private data and would need access to the employee’s wireless communications device records and possibly the device itself in order to provide the data that is being requested.
7. The County reserves the right to inspect any wireless communications device used as part of County employment at any time in order to verify or maintain compliance with County policies, respond to data requests, or to monitor employee performance.
8. Employees who abuse or misuse wireless communications devices may be subject to disciplinary action up to and including termination of employment.

702.800 TAX TREATMENT

1. Employer provided cell phones – Under IRS Notice 2011-72, when an employer provides an employee with a cell phone primarily for noncompensatory (non-wage) business reasons, the IRS will treat the employee’s use of the cell phone for reasons related to the employer’s trade or business as a working condition fringe benefit, the value of which is excludable from the employee’s income. In addition, the IRS will treat the value of any personal use of a cell phone provided by the employer primarily for noncompensatory business purposes as excludable from the employee’s income as a de minimis fringe benefit. The application of

the working condition and de minimis fringe benefit exclusions under this notice apply solely to employer-provided cell phones and should not be interpreted as applying to other fringe benefits.

2. Employer reimbursement of employee's personal cell phone usage – As stated in an IRS Field Examination Operations memo dated, September 14, 2011, in cases where employers, for substantial noncompensatory business reasons, require employees to maintain and use their personal cell phones for business purposes and reimburse the employees for the business use of their personal cell phones, examiners should analyze reimbursements of employees' cell phone expenses in a manner that is similar to the approach described in IRS Notice 2011-72. Specifically, in cases where employers have substantial business reasons, other than providing compensation to the employees, for requiring the employees' use of personal cell phones in connection with the employer's trade or business and reimbursing them for their use, examiners should not necessarily assert that the employer's reimbursement of expenses incurred by employees results in additional income or wages to the employee. The reimbursement for business use of the employee's personal cell phone must not be a substitute for a portion of the employee's regular wages.

The above referenced memo provided an example of a reimbursement arrangement that does not result in additional income or wages: an employer has a substantial noncompensatory business reason for requiring the employee to maintain a personal cell phone to facilitate communication during hours outside the employee's normal office hours. The employee uses the cell phone for both business purposes and personal purposes and the employee's basic coverage plan charges a flat-rate per month for a certain number of minutes for domestic calls. The employer reimburses the employee an amount not to exceed the monthly basic plan expense to enable the employee to maintain contact for business purposes.

YMC Access Agreement for Approved and Authorized Individually Owned Mobile Device

To access YMC messaging infrastructure using an individually-owned mobile device(s) each individual must:

- Agree to the terms and conditions outlined in this agreement.
- Connect to the YMC messaging infrastructure using only the approved connection mechanisms with an approved device(s).

This agreement is necessary to ensure YMC information is secure while in your possession and may be revoked at any time by any authorized YMC official.

By signing this document I, _____, agree to:

1. Abide by YMC Policies, Standards and Operating Procedures.
2. Give YMC, IT staff permission to make the appropriate modifications and configuration setting changes as required.
3. Contact the YMC IT Dept (320-368-0682) immediately:
 - a. If I suspect a security breach, my device(s) is lost, or stolen

*NOTE: All information, including personal information (e.g. Contacts, photos, music) will be erased from my device(s) for any of the events defined above as reasons to completely wipe device(s). As such it is the individual's responsibility to back up personal information in the event the mobile device(s) requires a remote wiping process be initiated due to one of the above defined and stated conditions.

- b. If I terminate use of my device(s)
- c. Upon my decision to separate from YMC

*NOTE: All YMC Email and Account Information will be removed for reasons defined above in point b. or c.

4. Allow YMC to completely wipe my device through remote wipe capability:
 - a. If a security breach is suspected
 - b. The device(s) has been reported lost or stolen

*NOTE: All information, including personal information (e.g. Contacts, photos, music) will be erased from my device(s) for any of the events defined above as reasons to completely wipe device(s). As such it is the individual's responsibility to back up personal information in the event the mobile device(s) requires a remote wiping process be initiated due to one of the above defined and stated conditions.

5. Surrender my device(s) to an authorized YMC representative in the event a security or privacy breach that has or is suspected to have occurred in connection with my device(s). If requested, I will grant YMC access to my mobile service provider's usage records.
6. Sync the personal device(s) with the YMC messaging infrastructure only by means of the approved wireless access software.

Additional Agreement Terms

1. I am personally responsible for the management of my mobile phone number, contract and associated provider (carrier) agreements.
2. YMC will only provide support and guidance for the installation and connection to the YMC messaging infrastructure. All other support related issues must be directed to the mobile service provider.

Employee Signature

Date

Supervisor Signature

Date

- Please return signed agreement to the IT Dept when completed -