



CITY OF UKIAH WIRELESS COMMUNICATION POLICY

Background

Federal tax law dictates that the personal use of city-provided wireless devices is a taxable fringe benefit. IRS rules mandate that the employee keep a log documenting each incoming and outgoing cellular phone call, differentiate which of those calls were business related and which were not, including the business purpose of the call, and that the city include the value of personal calls in the employee's taxable income. If the log is not kept, the IRS can declare that the entire cost of the wireless device plan is taxable income to the employee, even if most of the calls were business related.

This policy allows the city and employee to manage their business needs for wireless communication devices (cell phones and personal digital assistants [PDAs] with cellular capability) in a fiscally responsible manner while complying with federal regulations.

Policy

The City of Ukiah may provide a wireless communication stipend to an employee who has a documented official city business need for use of a communication device and continues to meet eligibility requirements as outlined under the Eligibility Requirements section below. **The wireless communication stipend is intended to reimburse the employee for the business use of their personally owned device and wireless plan.** The stipend is not intended to fund the cost of the device nor pay for the entire monthly bill of their wireless plan. The assumption is that most employees also use their wireless communication devices for personal calls.

As of the effective date of this policy, city departments shall no longer reimburse, purchase, or own wireless communication devices, nor renew or extend existing cell phone contracts on behalf of the city, except as noted below in the section regarding city-owned devices.

Stipend Eligibility Requirements

To qualify for the wireless communication stipend, the employee must have a business need, defined and approved by the department head or designated manager, which includes one or more of the following:

- The employee's job requires that they work regularly in the field and need to be immediately accessible.
- The employee's job requires that they need to be immediately accessible outside of normal business hours.
- The employee is responsible for critical infrastructure and needs to be immediately accessible at all times.
- The employee travels and needs to be accessible or have access to information technology systems while traveling.
- Access via voice and/or access to information technology systems via a mobile communications device would, in the judgment of the department head or designated manager, render the employee more productive and/or the service the employee provides more effective, and the cost of mobile communications service is therefore warranted. This access may be limited to voice communications or also require access to information technology systems—e.g., e-mail, calendar, Web, UC portal, etc.

Wireless Communication Stipends

The wireless communication stipend does not constitute an increase to base pay, nor will it be included in the calculation of percentage increases to base pay due to raises, job upgrades, retirement or other compensation increases. The stipend will be itemized on pay stubs, reported on employees' W-2s and subject to withholding taxes.

The monthly maximum stipend amount is established by the City Manager and approved by way of City Council resolution and/or annual budget approval.

The determination of the stipend amount covers the employee's projected business related expenses only.

Responsibilities of Employees Receiving Stipend

When a wireless communication stipend has been approved and provided to an employee for the conduct of official business, the employee must comply with the following:

- The employee will provide the wireless phone number within five days of activation and will be available for calls (in possession of the wireless communication device and have it turned on) during those times specified by their department head or designated manager.
- The employee may select any wireless carrier whose service meets the requirements of the job responsibilities as determined by the department head or designated manager.
- The employee must inform the city when the eligibility criteria are no longer met or when the wireless service has been cancelled.
- The department head or designated manager may periodically request that the employee provide a copy of the first page of the phone bill in order to verify that he/she has an active wireless communication plan. Management may also periodically request documentation of substantial business use. At minimum, the documentation will be required when initially applying for the stipend and may be required each time the stipend is renewed.
- The employee is responsible for all charges on his/her personal wireless plan, including early termination fees. If the employee leaves the position, he/she continues to be responsible for the contractual obligations of his/her wireless communication plan.
- The employee is personally responsible for complying with international, federal, state, and municipal laws regarding the use of wireless phones and other communication devices while driving. Under no circumstances will the city be liable for non-compliance.
- The employee does not need to maintain a log for business and personal phone calls if receiving a wireless stipend.
- The employee requiring data services from the City agrees to follow the requirements set forth by the IT Department for types of Data enabled devices. Employees with incompatible equipment understand connection to the City's systems is not supported or eligible for data stipend.

City-Owned Wireless Communication Devices

With the approval of the City Manager or his/her designee, the city may purchase wireless communication devices with their associated plans in certain limited circumstances—e.g., specific use phones or devices that rotate among city departments, facilities or maintenance personnel. No personal calls or use are allowed on city-owned wireless communication devices.

Department heads or designated managers must review the monthly bills of city-owned wireless communication pool devices to ensure that no personal calls were made. Inadvertent or emergency personal calls must be documented and reported by the employee and reimbursed to the city for actual costs. Personal use of the device will also expose the employee to income tax liability pursuant to federal tax law.

Security

The city reserves the right to require any mobile device accessing the city's infrastructure to be subject to future mobile device security policies and guidelines as established by the city's IT department. This applies to both city and personally-owned devices. Security policies may include device requirements for mobile anti-virus/spyware, mobile firewall, secure communications, encrypted file folders including storage cards, strong passwords, two-factor authentication, and/or destruction and disabling in the event of a lost or stolen device. Costs for any mobile security measures will become the financial responsibility of the organizational unit and/or the individual owner of the device at the time such requirements become city policy.

Miscellaneous

Extraordinary business use of an employee's personal wireless device in excess of the monthly stipend can be reimbursed with appropriate documentation and recommendations of the employee's department head or designated manager.

Exceptions to this policy require approval from the City Manager or his/her designee.

Misuse or fraud in regard to the City's Wireless Communication Policy may result in progressive administrative and/or disciplinary action up to and including termination of employment and criminal prosecution.