

# ADMINISTRATIVE REGULATION 2021-02

## MAYOR JOHN SUTHERS

**DATE:** August 6, 2021

**TOPIC:** Cell Phone Allowance

**LEGAL AUTHORITY:** City Charter §§ 4-40

### 1.0 Purpose and Scope

This Administrative Regulation sets forth the City of Colorado Springs' guidelines for City employees who are eligible to receive a Cell Phone Allowance from the City.

### 2.0 Terms Defined

None

### 3.0 Procedures

Pursuant to City Charter Article 4, specifically including but not limited to § 4-40, the Mayor shall perform all executive and administrative functions of the City, including designation of administrative guidelines. Directing City staff through policies and procedures with regard to the guidelines to employee reimbursements for cell phones is an executive and administrative function of the City government.

#### 3.1 Purpose

A monthly fixed Cell Phone Allowance is intended to provide a fair and reasonable reimbursement when an employee uses a personally owned and service contracted cell phone to conduct City business on a frequent and routine basis or where the employee needs to be available beyond regular work hours. The fixed monthly allowance is intended to ease the administrative effort otherwise required to track and report every occurrence of personal cellular usage for business purposes for those employees who use a cell phone extensively in the performance of their duties and to defray the cellular operating and fixed costs borne by the employee, including cell phone hardware purchases, replacement, and any maintenance of devices as required. The allowance rates will be reviewed and established annually.

#### 3.2 Eligibility

Employees eligible for a cell phone allowance generally include Department Heads; Managers; some Supervisors; and full-time employees, by exception, whose jobs regularly require emergency call back, irregular work hours, or other job related factors that require the employee to routinely utilize a cell phone to enhance their ability to perform

their job duties. An employee may not receive a Cell Phone Allowance and also be issued a City-owned cell phone or smartphone.

### **3.3 Allowance Amount and Taxation**

The Cell Phone Allowance, as of the date of issuance of this Administrative Regulation, is \$45.00 per month. The Cell Phone Allowance will be adjusted annually at the sole discretion of the City to ensure that such allowance is fair and reasonable and/or to align such allowance with the cost associated with City-issued mobile communication devices. The Cell Phone Allowance amount will be posted to and updated on the City's Finance Department intranet site.

Because the employee owns the cell phone personally, and the allowance provided is taxable income, the employee may use the phone for both business and personal purposes, as needed. Use of the phone in any manner contrary to local, state, or federal laws will constitute misuse, and will result in immediate termination of the Cell Phone Allowance.

### **3.4 Department Head Responsibilities**

Department Heads shall approve which employees within their departments qualify for a Cell Phone Allowance to cover business use of their personally owned and service contracted cell phones.

It is not intended that all City employees using personal cell phones for business purposes will receive an allowance. A Cell Phone Allowance will be authorized only where an employee uses a personal cell phone and cellular plan for conducting regular and necessary City business. Incidental and occasional use of a personal cell phone and cellular plan is expected for City business and is not to be compensated with an allowance.

### **3.5 Employee Responsibilities**

Employees receiving a Cell Phone Allowance will obtain their own cellular phone, and the service provider and the plan design of their choice. Cellular contracts for personally owned cell phones are between the employee and the cellular provider and are not obligations of the City. The employee is responsible for all expenses incurred in the operation of the cell phone, which in most all cases will exceed the allowance. Invoices for personally owned cell phone equipment and/or usage are not to be addressed to the City and are the employee's sole responsibility to pay. Employees who receive the allowance for personally owned cell phones and cellular contracts are required to maintain current service in good standing with the cellular provider so long as the allowance is in effect.

Employees receiving a Cell Phone Allowance must provide their Department Head and the City's Technology Department with their current cell phone number and immediately notify both parties if the number changes. Employees receiving a Cell Phone Allowance are expected to carry the cell phone on their person both on and off duty and respond

when called for City business, in accordance with the employee's Department policies and procedures. Employees who receive the allowance for personally owned cell phones are required to make their phone numbers available for appropriate business use and to be available to answer calls on their cell phone during business hours when regular business phones are not available or at other hours as may be appropriate or required for the position.

If an employee is receiving a Cell Phone Allowance and, subsequently, is issued a City owned cell phone, it is the employee's responsibility to notify City Payroll of the change in status and the Cell Phone Allowance will be discontinued.

Reimbursement for business calls on a privately owned cell phone is not provided by the City and shall be covered by any allowance. Reimbursement beyond the allowance is not provided for any reason.

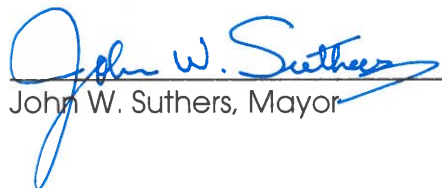
If, prior to the end of the cell phone contract, the Cell Phone Allowance is discontinued or the need to end or change the cell phone service contract arises as a result of a personal decision by the employee, employee misconduct, or misuse of the phone, the employee will bear the cost of any fees associated with that change or cancellation. For example, if an employee resigns, and no longer wants to retain the current cell phone contract for personal purposes, any cancellation charges will be the employee's responsibility.

### **3.6 Privacy, CORA and Other Discovery**

Any email, account, or application on the employee's personally owned cellular device used for City business may be subject to discovery and legal hold requirements, as well as subject to production in accordance with the Colorado Open Records Act (CORA).

### **4.0 Miscellaneous**

- 4.1. This Administrative Regulation shall be effective as of August 6, 2021, and shall remain in effect until amended or rescinded.
- 4.2. This Administrative Regulation shall be filed with the City Attorney and made available for public inspection on the City's website.

  
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John W. Suthers, Mayor

APPROVED AS TO FORM:

  
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Office of the City Attorney