Use of E-Mail, Internet Services, and Other Electronic Media 1.7.1

GENERAL PRINCIPLES

Technology has significantly expanded opportunities to enhance communication, efficiency, effectiveness, and productivity in the delivery of City services. The City recognizes that the use of e-mail and computers by City employees has increased significantly, raising numerous policy issues with respect to communication, creation of information and systems, retrieval and storage of records, and proper etiquette.

Technology has also greatly expanded opportunities to communicate with friends and family through email and the internet, as well as providing opportunities to conduct personal business, including shopping, social networking, online banking and other non-work activities. However, the special ethical considerations of public service requires us to separate our personal lives from our professional lives.

The City's policy regarding the use of e-mail, internet services, and other electronic media is below.

POLICY

1. General Policy

As stated in the Code of Ethics, City employees and officials shall not use City time, City funds, City facilities, equipment, or supplies for personal use or personal gain. This includes computers, internet access, and email. These resources are provided for City business only.

It is the policy of the City of San José that the use of City computer equipment, electronic facilities and electronic data is limited to ***official City purposes*** only. Employees must use the information systems for City of San José business only. Amongst other non-City related uses that are prohibited, the e-mail system may not be used to solicit or persuade others for commercial ventures, religious or political causes, outside organizations, or other non-job-related solicitations.

Electronic mail and information systems of the City are not to be used in a way that may be disruptive, offensive to others, or harmful to morale. For example, the City prohibits the display or transmission of sexually explicit images, messages, cartoons, or any transmission or use of e-mail communications that contain ethnic slurs, racial epithets, or anything that may be construed as harassment or disparagement of others based on their race, national origin, color, sex, sexual orientation, age, disability, religious or political beliefs.

Employees should use personal cell phones/smartphones or personal laptops for personal business instead of using City equipment/resources. (For hourly employees, even when using personal equipment, any personal business should be conducted during breaks or lunch periods and for salaried employees shall not interfere with work. Such use must comply with other City policies, including the Discrimination and Harassment Policy.)

From time to time, however, employees may need to use City equipment to communicate work schedule changes or scheduling or rescheduling of medical appointments because of work

schedules. For purposes of this policy, these limited and brief communications shall be considered work-related.

Because use of the City's email and internet are for City business purposes only, **employees should have no expectation of privacy when using these technologies. Email and internet use may be reviewed at any time.**

Technology in the computer and e-mail industry changes rapidly and references to named suppliers in this policy are subject to change without prior notice and modification to the policy. It is understood this policy will continue in full force and effect even if there are future additions and/or deletions to the named suppliers in this policy, if those suppliers are providing the same or similar services.

The following policies apply to the use of e-mail, internet services and other electronic media by City employees or users of the City electronic systems:

2. Public Records

All City records, regardless of media or format and including e-mail messages and other electronic records are governed by the requirements of the California Public Records Act (CPRA). Requests for information under the authority of the CPRA that involve e-mail messages and/or attachments should be handled in accordance with standard City and departmental policies. City Policy 6.1.1, Public Records Policy and Protocol, provides guidelines regarding the CPRA and responses to requests for records under its authority.

3. Retention and Management of E-Mail Messages

A. The City e-mail system is not a recordkeeping system and is not intended for regular retention of e-mail. All e-mail messages and attachments that fall under the description of any records series listed on an approved City records retention schedule must be removed from the e-mail system and retained as records. The City Public Records Manager can provide advice on whether or not particular e-mails constitute records.

B. Any e-mails and attachments that must be retained as records shall be saved as electronic files situated on the City's computer network. No e-mails or other electronic records shall be stored on desktop or laptop computer hard drives (i.e. "C drives") or in personal (.pst) e-mail files.

C. E-mail messages and attachments that do not need to be retained as records should be deleted as soon as possible. E-mail messages on the City e-mail system may be deleted regularly and automatically from the system by the Information Technology Department (ITD). This includes messages and attachments maintained in personal (.pst) files.

D. The City Attorney's Office and/or the Office of Employee Relations may suspend the deletion of any e-mail that may be needed as documentation in the course of legal and/or disciplinary proceedings.

E. Employees must transfer messages and/or attachments that must be retained as records to storage off the e-mail system selectively as individual files. Employees shall not transfer undifferentiated e-mail in bulk to the City's computer network or to local hard drives.

F. Messages and attachments that are removed from the e-mail system for retention as records must be retained in accordance with an applicable approved records retention schedule. If unsure how to identify and use the applicable retention schedule, employees should contact their departmental Records Administrator or the City Public Records Manager for assistance.

G. The City does not back-up the e-mail system on a long-term basis or for recordkeeping purposes. The City stores electronic mail only to the degree that allows the restoration of current electronic mail in the event of a systems failure. E-mail messages and attachments that have been deleted by a user prior to a periodic back-up will not be recoverable from that back-up.

H. Each user is provided with a limited amount of storage space on the e-mail system as determined by ITD according to available resources and technological developments. When employees reach that limit, the system will not permit the user to send or receive messages until the volume of messages for the user's account has decreased within its prescribed limit.

I. ITD will limit the size of e-mail attachments that will be permitted to be transmitted according to available resources and technological developments.

4. Privacy, Access, and Ownership of E-Mail

Messages sent and received via the City's e-mail system are the property of the City. The City reserves the right for any reason to access and disclose all messages and other electronic data sent over its electronic mail system or stored in its files. The City has the right to delete or retain any or all electronic files including e-mail of a City employee who is no longer employed by the City. **There are no rights to privacy when using the City's e-mail and internet system.**

Departments that want to access a current employee's email or internet access, must receive written approval from the City Manager's Office, by submitting a request to the City Manager's Office of Employee Relations. A Department Director or designee must approve access to a former employee's email or internet access.

5. Attorney-Client Privileged Communications and Attorney Work Product

Some messages sent, received, or stored on the City e-mail system will constitute confidential, privileged communications between the City and its attorneys. Some messages may be subject to the attorney work product doctrine as well. Attorney-client communications and attorney work product should never be forwarded without consulting both the City Manager's Office and the City Attorney's Office.

6. Confidential Information

Most communication among City employees is not considered confidential. However, certain communications, such as police investigations and personnel records, may be confidential or contain confidential information. Questions about whether communications are confidential should be raised with the City Manager's Office or City Attorney's Office.

A. Employees shall exercise caution in sending confidential information on the e-mail system as compared to written memoranda, letters, or phone calls, because of the ease with which such information may be retransmitted.

B. Confidential information should not be sent or forwarded to individuals or entities not authorized to receive that information and should not be sent or forwarded to other City employees not directly involved with the specific matter.

C. Care should be taken in using e-mail to ensure messages are not inadvertently sent to the wrong individual. In particular, employees should exercise care when using distribution lists to make sure all addressees are appropriate recipients of the information. Lists are not always current and individuals using lists should take measures to ensure lists are current.

D. Employees shall not discuss confidential information outside of the workplace.

E. Confidential information should not be reproduced unnecessarily.

F. Employees shall return all tangible forms of confidential information to the City upon termination of employment or at the City's request.

7. Internet and Intranet Services

The City of San José provides employees with Internet and Intranet access for official City business purposes only. The following policies are applicable to employee use of the Internet or Intranet via City provided access:

A. The City reserves the right to deny internet and/or intranet access to any employee or group of employees.

B. Employees shall not create discussion groups (blogs) on the Internet or Intranet without approval from the Department Director and the City Manager's Office.

C. Departments shall designate a 'Content Manager' for point of contact with (ITD) and the City Manager's Office.

D. Departments shall use the City's Internet home page for all Internet postings and Intranet home page for Intranet postings, and shall not initiate new or separate services outside of the City's designated services without the consent of the Department Director

and the City Manager's Office. Internet and Intranet home pages external to the City's official sites must be linked to these home pages.

E. Departments shall post information to the Intranet and Internet using guidelines provided by the City Manager's Office.

F. The decision of the City Manager's Office for appropriateness of materials and usage of Internet and Intranet services shall be final.

G. Department Directors have primary responsibility to ensure adherence to this policy.

H. ITD has technical responsibility for setting up and managing Internet and Intranet resources, including user account maintenance.

I. The following policies are applicable to downloaded information:

1. Information downloaded from the Internet or Intranet shall be for City work related purposes only.

2. Downloading of large data images, video, and graphics should be timed so as not to impact the performance of the City network. Very large files should be downloaded after normal business hours.

J. Internet broadcast services must be approved by the Department Director or designee. Internet broadcast services must utilize the centralized ITD broadcast servers when available.

8. <u>Intellectual Property Rights</u>

A. It is the City of San José's policy to retain all copyrights and other intellectual property rights of which it is the legal owner. All copyrights and other intellectual property rights which are created by City employees in the course and scope of their employment by the City of San José are the exclusive property of the City of San José.

EXCEPTION: Works created under the following circumstances are excluded from this policy:

1. Works developed entirely by the employee on the employee's own time without using City equipment, supplies, facilities, or trade secret information except for those creations that either:

(a) Relate at the time of conception or production to the City's business, or actual or demonstrably anticipated research or development of the City; or

(b) Result from any work performed by the employee for the City.
For example, an employee may retain rights to artwork, photographs, and writings which are created by the employee at home, which are not

related to the employees' work and not intended to be used or purchased by the City of San José.

2. Copyrights or other intellectual property rights which are created pursuant to an authorized written agreement between the City of San José and the employee which gives a property right to the employee. Agreements shall not be authorized without prior written approval of the City Manager, or designee.

B. Transfer of Information

1. City employees shall not post material on Internet or Intranet services, send material via e-mail, copy materials, or download materials when such actions would constitute copyright infringement or violation.

2. Employees shall not transfer or use in the performance of their duties any proprietary or confidential information, whether or not in writing, of a former employer without that employer's written consent.

9. Security

A. City of San José information technology systems shall be protected from intrusion from outside sources, as follows:

1. The City shall construct fire walls to prevent outside sources from using telnet and File Transfer Protocol (ftp) to gain access to the City system except where authorized by ITD.

2. Inbound Internet services shall be limited to e-mail (SMTP), and newsgroups (NNTP).

3. The public shall not have direct access to the City's Intranet server. All public access will be through the Internet server.

B. The City reserves the right for any reason to access, disclose and delete all messages and other electronic data sent over its electronic mail system or stored in its files.

10. Employee/User Responsibilities

A. Employees shall not enter or attempt to enter the computer files or e-mail messages of another individual without the employee's authorization or consent, or the consent of the City Manager's Office.

B. Suspected or identified security violations shall be reported to ITD. Violators may lose email and/or internet access and may be subject to disciplinary action.

C. Employees shall not use re-mailing services, or use "anonymous" or "aliases" to protect their individual identities while using City information technology systems or equipment.

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D. Employees should regularly change their individual passwords. Employees shall not share individual passwords with other individuals except for legitimate City business reasons.

E. Employees shall not use, or attempt to use, another employee's password without the employee's consent and for a legitimate City business reason.

F. All communications should follow proper etiquette, such as:

1. Materials posted by City employees shall professionally represent the City of San José. The transmission of defamatory, obscene, offensive or harassing messages, or messages which disclose personal information without authorization is prohibited.

2. E-mail messages and electronic postings may be read by people beyond the addressee, and upon request may be produced to a court in connection with litigation and should be composed accordingly.

G. Employees shall not send mass electronic mail messages on a "Department-wide" basis to all Department employees without prior written authorization of the Department Director, or designee. All "City-wide" emails must be approved and sent by the City Manager's Office.

H. Employees should carefully consider the names on a mailing list as addressees or copies. Some employees may not want their e-mail addresses to be widely known or to receive responses to widely distributed messages.

I. Misaddressed e-mail shall be sent back to the original sender with a message that the message has been misaddressed, and the original deleted. However, if the misaddressed electronic mail is offensive, inappropriate or otherwise in violation of this policy, the misaddressed e-mail shall be forwarded to the recipient's Department Director or designee for appropriate action.

J. Employees shall not use other e-mail services or third party e-mail providers, such as Yahoo or Gmail, for City related purposes and shall not use City equipment to access such e-mail for any reason.

K. Employees shall not use City internet services to access broadcasting of web-streamed music.

Approved:

/s/ Debra Figone
City Manager

03/02/2010
Date