

## **CITY COMMISSION ELECTRONIC MESSAGING POLICY**

### **PURPOSE**

This purpose of this policy is to establish acceptable usage by elected officials of electronic messaging systems, including but not limited to e-mail, instant messaging, blogging and social media sites, such as Facebook or Twitter (sometimes collectively referred to as “electronic messaging” or “electronic messages”).

### **APPLICABILITY**

This policy applies to the Mayor and City Commissioners and, upon adoption, will become part of the Commission’s Rules of Procedure. A separate policy applies to City employees.

### **IN GENERAL**

Although the use of electronic messaging and social media allows City Commissioners to conduct City business efficiently, use of electronic messaging systems comes with some inherent risks. The City Commission sets forth the following policies, but reserves the right to change those policies at any time as may be appropriate or required under the circumstances or as resulting from the development of new technologies or new laws.

The City Commission prohibits discrimination based on age, race, gender, sexual orientation, physical or mental disability, sources of income, or religious or political beliefs. Use of electronic messaging resources to harass or to discriminate for any or all of the aforementioned reasons is prohibited.

### **Message Ownership, Confidentiality and Public Records Retention**

- All electronic messages to or from City elected officials where City business is discussed, whether on City-provided electronic messaging systems or on personal systems or web server pages are subject to disclosure through valid public records or litigation discovery requests.
- Messages sent electronically can be intercepted inside or outside the agency and, as such, any expectation of confidentiality is limited. Accordingly, proprietary or confidential information should not be sent through e-mail, instant messages or other social media sites.
- All electronic messages stored in City-provided electronic messaging systems or composed, sent, or received by City elected officials, regardless of their content, are, by law, public records of the City. This includes e-mail that is accessed using City-provided electronic messaging resources via external e-mail systems, such as Yahoo!, Gmail, Hotmail, MSN Mail, AOL, Comcast, and other e-mail services offered by Internet service providers. In order to aid in record retention and organization, the City-provided electronic messaging system will be programmed to provide an automatic copy of all electronic messages sent to and from City elected officials, regardless of whether those messages are ultimately determined to be exempt from disclosure.
- If the information transmitted by electronic messages relates to the “transaction of public business,” that information shall not be deleted or otherwise disposed of unless done in accordance with a records retention schedule set forth in Oregon City Resolution No. 09-31. Each e-mail message or posting must be evaluated for content to determine which

retention procedure to apply. The City Recorder shall assist City elected officials, as requested, in making such determination.

- The legal “custodian” responsible for retaining electronic messages on privately-maintained electronic messaging systems will normally be either the originator of the message for outgoing messages or the receiver of the message for incoming messages. The City shall not be deemed the legal custodian of messages that are not included in city-maintained back-up files.
- When a public records request is made to the City that includes records retained by an elected official of the City, the City Recorder shall notify the affected official(s). Under the City’s public records policy, the elected official has five days from the date of receipt of a request for public records, including for electronic messages, to deny, grant, deny in part, or grant in part the request. Alternatively, the elected official shall within five (5) business days explain why more time is needed for a full response. Failure to respond within the seven day deadline shall be deemed a denial. Expiration of this seven day period triggers the right to initiate proceedings in circuit court to challenge the denial. The elected official may consult the City Attorney for advice in dealing with a request for public records. Further representation of an elected official shall be a determination of the City Manager or City Commission. It is the responsibility of each City Commissioner to acquire appropriate training in retention of electronic messages. The City Recorder’s Office is available to assist the City Commission with regard to standard retention practices.
- Electronic messages are frequently inadequate in conveying mood and context. Elected officials should carefully consider how the recipient might interpret a message before composing or sending it.

#### Use of Electronic Messages and Public Meetings

- Use of e-mail by a quorum of a public body may, in some circumstances, constitute a meeting under Oregon’s public meeting laws, even when discussions take place through one-on-one email discussions that then can be passed on to others. As such, the City Commission is encouraged to refrain from discussing City business via electronic messages in those cases in which members are deliberating towards a decision.

#### City Issued Electronic Messaging

- The City provides electronic messaging resources to assist in conducting City business including issuance of an email address that is to be used while conducting City business via email and not for personal use. These limitations include but are not limited to:
  - Personal soliciting.
  - Lobbying, soliciting, recruiting, selling, or persuading for or against commercial ventures, products, religious or political causes unrelated to City business, outside organizations, or similar activities.
  - Electioneering with regard to candidacy for public office.
  - The operation of a business or for any undertaking for personal gain.
  - Use by, or on behalf of, any outside organization or third party.
- As records created by elected officials on City messaging systems are public records, the City may intercept, monitor, review and/or disclose any and all messages composed, sent, or received on city-issued electronic resources. The interception, monitoring, and reviewing of messages may be performed with the assistance of content filtering software, or by designated agency employees and/or designated external entities. City

employees designated to review messages may include, but are not limited to, the city manager, city recorder, and/or representatives from Human Resources, Legal, or Information Technology departments.

- The City may alter, modify, re-route, or block the delivery of messages as appropriate. This includes, but is not limited to:
  - Rejecting, quarantining, or removing the attachments and/or malicious code from messages that may pose a threat to City resources.
  - Discarding attachments, such as music, considered to be of little business value and of significant resource cost.
  - Rejecting or quarantining messages with suspicious content.
  - Re-routing messages with suspicious content to designated City employees for manual review.
  - Rejecting or quarantining messages determined to be unsolicited commercial e-mail (spam).
  - Appending legal disclaimers to messages.

The system administrator shall keep a record of those messages altered, modified, re-routed, or blocked.

- Even though the City employs anti-virus software, virus infected messages can enter the City's messaging systems. Viruses, "worms," and other malicious code can spread quickly if appropriate precautions are not taken. Elected officials should:
  - Be suspicious of messages sent by people not known by you.
  - Not open attachments unless they were anticipated by you.
  - Disable features in electronic messaging programs that automatically preview messages before opening them.
- The City considers unsolicited commercial e-mail (spam) a nuisance and potential security threat. Elected officials are encouraged not to attempt to remove themselves from future delivery of a message that they determine is spam. These "Remove Me" links often are used by unscrupulous mass junk e-mailers as a means to verify that you exist. Attempted removal will only ensure that the member will receive ever-increasing amounts of spam.
- Upon expiration of term of office, the City will deny all access to electronic messaging resources, including the ability to download, forward, print, or retrieve any message stored in the system, regardless of sender or recipient, unless requested through the public records request policy of the City.
- Internet message boards are a fertile source from which mass junk e-mailers harvest e-mail addresses and e-mail domains. Elected officials are encouraged not to use City-provided e-mail addresses when posting to message boards.

Adopted December 7, 2011 by the City Commission.