




MEMORANDUM

February 5, 2013

TO: Board of Mayor and Aldermen

FROM: Eric Stuckey, City Administrator 
Fred Banner, MIT Director
Shauna R. Billingsley, City Attorney

SUBJECT: Resolution 2013-08, A Resolution To Rescind Resolution 2008-23 And To Adopt A Revised Policy For The Use Of Computers, Internet And Email

Purpose

The purpose of this memo is to present information to the Board of Mayor and Aldermen (BOMA) regarding Resolution 20130-08, A Resolution To Rescind Resolution 2008-23 and to Adopt a Revised Policy for the Use of Computers, Internet And Email.

Background

In 2009, the City implemented an email archiving system which, by default, retains all email messages for seven (7) years. It has become apparent that maintaining this amount of archiving (which would require buying more server storage) will be a strain on City resources. Staff has researched how long other governmental entities (both within Tennessee and across the country) retain email in an archive system, and we have found ranges from thirty (30) days to keeping all messages indefinitely. After consideration of these examples, and research on both state and federal statutes of limitation for court actions, we have determined that a retention period of two (2) years is most appropriate for the City.

Additionally, in 2008, BOMA adopted Resolution 2008-23, which provided for an Email Deletion Policy. This resolution provided that all City emails would be retained within a user's inbox for one hundred twenty (120) days and then automatically archived. Staff has determined that it will be better for emails to remain in a user's inbox for sixty (60) days, at which point they will be archived. Because the City's *Policy for the Use of Computers, Internet and Email* (adopted by BOMA in 2009) addresses both email retention and archiving, and because there is a proposed change in the inbox retention time period, staff is recommending to rescind Resolution 2008-23, and to modify the *Policy for the Use of Computers, Internet and Email* to provide for the new timeframes of a sixty (60)-day retention in a user's mailbox and a two (2)-year archiving by the City's archive system. The *Policy* will then be the only document which sets forth email deletion and retention practices for the City of Franklin. Both the current and proposed versions address the need to retain/save emails when users are notified of potential or pending litigation.

The language in the Policy is proposed to be changed as follows, with the current version shown in strikethrough, and the proposed language shown in **bold**:

~~The City strongly discourages the storage of a large number of email messages. Retention of messages takes up a large amount of space on the email server and can slow down system performance. However, the City has a Records Retention Policy that must be observed.~~



~~Pursuant to Resolution 2008-23 (adopted by the Board of Mayor and Aldermen on July 8, 2008), beginning August 1, 2008, all emails shall be deleted by the MIT department on a cycle of one hundred twenty (120) days. Should any person with City email be notified of a potential or pending lawsuit such person shall save every email pursuant to Federal law. Failure to adequately save all emails upon notification of potential or pending litigation may result in disciplinary action and/or a finding of contempt of court.~~

Email messages will, by default, remain with the user for sixty (60) days. Users are encouraged to review the email, save it to a separate drive if the email message needs to be kept, and to then delete email messages from their local storage immediately thereafter in order to improve the performance and reduce system overload on the email servers After sixty (60) days from originally being received, the email will automatically be purged from the user's email system and archived.

City email archives, due to storage limitations, will not be utilized as an indefinite archival storehouse for emails. All archived emails shall be permanently deleted from archives after two (2) years from the date the email message was originally received or sent. An exception shall be made for emails marked for litigation hold prior to their being automatically purged.

Should any user be notified of a potential or pending lawsuit, then said user shall immediately save any relevant emails required pursuant to state and federal law. Failure to adequately save all emails upon notification of potential or pending litigation may result in disciplinary action and/or a finding of contempt of court.

Financial Impact

To adopt Resolution 2013-08, and therefore the new retention and archiving time periods, would not have an immediate budgetary impact. However, if Resolution 2013-08 is not approved, the City can expect to see at least a 20% per year increase in server storage costs to continue the archive period of seven (7) years.

Recommendation

Approval of Resolution 2013-08 as presented is recommended.

RESOLUTION 2013-08

A RESOLUTION TO RESCIND RESOLUTION 2008-23 AND TO ADOPT A REVISED POLICY FOR THE USE OF COMPUTERS, INTERNET AND EMAIL FOR THE CITY OF FRANKLIN, TENNESSEE

WHEREAS, on July 8, 2008, the Board of Mayor and Aldermen of the City of Franklin (“Board”) adopted Resolution 2008-23 to Adopt an Email Deletion Policy (“Deletion Policy”); and

WHEREAS, in 2009, the Board adopted the Revised Policy for the Use of Computers, Internet and Email (“Use Policy”); and.

WHEREAS, the Board finds the Deletion Policy overlaps on email retention practices provided for in the Use Policy, and is therefore, no longer necessary; and

WHEREAS, the Use Policy currently provides that City emails shall be retained for seven (7) years; and

WHEREAS, the Use Policy’s current email retention policy places a strain on City resources and budget by requiring large amounts of server storage; and

WHEREAS, the Board of Mayor and Aldermen find that it is in the best interest of the City, and will promote more efficient operations and better use of City resources, to have email retention practices addressed solely in the Use Policy, and to revise the Use Policy to provide for shorter email archive retention period of two (2) years.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, TENNESSEE AS FOLLOWS:

Section 1. The Board of Mayor and Aldermen hereby rescinds the Deletion Policy, Resolution 2008-23.

Section 2. The Board of Mayor and Aldermen hereby adopts the revised Policy for the Use of Computers, Internet and Email (“Policy”), attached to this Resolution as Exhibit A.

Section 3. Changes or revisions to the Policy hereby adopted may be made by the City Administrator.

Section 4. The Policy shall be effective upon its adoption.

ADOPTED THIS ____ DAY OF _____, 2013

CITY OF FRANKLIN, TENNESSEE

Attest:

DR. KEN MOORE,
MAYOR

ERIC S. STUCKEY
CITY ADMINISTRATOR

Approved As To Form By:

Kristen L. Corn, Staff Attorney



Policy for the Use of Computers, Internet and Email

PURPOSE AND APPLICABILITY:

The purpose of these procedures, standards, and guidelines is to establish a policy for the use of computers, including laptops, and related equipment, including but not limited to handheld devices and cell phones, internet and email by City of Franklin employees on City-provided computers, accounts, and through City of Franklin's internet and email servers, whether accessed directly or remotely.

Computers and related items furnished by the City are City property, intended for use by employees for City business. These items include, but are not limited to, hardware, software (including email and internet software), computer files and documents.

The following procedures apply to all employees ("users"), including probationary, full-time, temporary and part-time employees, as well as interns and contractor personnel and to all equipment, electronic media and services that are:

- Accessed on or from City premises;
- Accessed using City-owned or leased equipment or via remote access methods; or
- Used in a manner that identifies the individuals with the City

This policy is intended to be illustrative of the range of acceptable and unacceptable uses of the City's computers, equipment, electronic media, software, internet and email facilities and is not necessarily exhaustive. Questions about specific activities not enumerated in this policy should be directed to the user's supervisor.

WAIVER OF PRIVACY

Users of the City of Franklin system have no expectation of privacy while using City-owned or City-leased equipment. Users understand that any connection to the internet offers an opportunity for non-authorized users to view or access City information. Therefore, it is important that all connections be secure, controlled, and monitored. Electronic mail, whether sent via the internet or internally, **may be a public record subject to public disclosure** under the Tennessee Public Records Law and may be inspected by the public (T.C.A. § 10-7-512), or possibly subject to disclosure in litigation.

Internet browsing, establishing links, and file accessing are not private activities.

Information passing through or stored on City equipment, including but not limited to computer , a history of websites visited and emails obtained or deleted (even if password protected or encrypted), can and will be monitored and recorded using internet filtering software or other technology as the City deems appropriate. Use of passwords or encryption does not confer a special status on the internet-generated files with respect to applicability of laws, policies, and practices. Users should also understand that the City maintains the right to monitor and

review—without notice or a user’s permission—computer use, internet use and email communications 24 hours a day, whether sent or received by users.

PROHIBITED USES

Users shall not use the City of Franklin’s computer equipment, internet or email for unacceptable purposes or in an unacceptable manner as described below:

- **Excessive Personal Use:** Use that interferes with City operations, compromises functioning of the City’s network, or interferes with the user’s employment or other obligations to the City of Franklin is unacceptable. Examples: accessing sports, entertainment, and job information and/or sites, or partaking in activity on behalf of organizations or individuals having no affiliation with the City for a personal gain.
- **Illegal activities:** Examples include, but are not limited to: violating federal and state laws dealing with copyrighted materials (including articles and software) or materials protected by a trade secret; transmission of offensive statements that might incite violence or describe or promote the use of weapons or devices associated with terrorist activities.
- **Permitting unauthorized access by another.** Includes giving a password or access code to another, leaving equipment vulnerable to unauthorized use, etc.
- **Privacy Rights:** violating or infringing on the rights of any other person, including the right to privacy, (i.e., Social Security numbers), and to confidential health information under HIPAA.
- **Work Interference:** Sending of messages likely to result in the loss of recipients’ work or systems, and any other types of use that could cause congestion of the network or otherwise interfere with the work of others, including annoyance or harassment. Modifying files or data belonging to other users without proper authorization to do so.
- **Sexually explicit materials:** Generating, soliciting, viewing, storing, transmitting or other use of data or other matter which depicts or describes nudity, including sexual activities or organs, in a manner which is lewd and intended to elicit a sexual response, except for an official law enforcement investigation.
- **Obscene/Profane/Discriminatory materials:** Generating, soliciting, viewing, storing, transmitting or other use of data or other matter which is abusive, profane, vulgar, contains offensive content of any kind , or otherwise offensive to a reasonable person except for an official law enforcement investigation. This includes, but is not limited to, any material containing ethnic slurs, racial comments, off-color jokes, or material that may be construed as harassment or the showing of disrespect for others, or that which may create a hostile or unsafe work environment.
- **Paid subscription:** No user shall have authority to subscribe to any service for which a fee is charged unless approved by the City Administrator.
- **Promoting messages of a religious, political, or racial nature.**
- **Streaming audio and video.**
- **Unauthorized Web Page, Blog or Other Unofficial Postings:** Blogging and other posting for personal or department purposes is not permitted on a City account or on or through City equipment, unless reviewed and approved by the City Administrator.

- **Breaching Security/Tampering with Records.** Attempting to test, circumvent or defeat security or auditing systems or tampering with programs, records or other another's saved data without prior authorization.

USE OF EMAIL

In addition to the prohibitions outlined in Prohibited Uses above, unacceptable uses for the use of email include, but are not limited to, the following:

- Personal use of email that is unacceptable conduct, as outlined elsewhere in this Policy;
- Commercial use, candidate or political fund-raising, and use by individuals or organizations not authorized to use City facilities. Authorization for other external uses of email, such as professional organizations, requires written approval of the City Administrator and will be granted only when that use is determined to further the City's mission;
- Intercepting, eavesdropping, recording, or altering another person's email message(s), except for system administrators or other individuals as approved by the City Administrator for purposes described below;
- Forwarding a message sent to you without the recipient's permission, including chain letters, junk mail or advertisements;
- Spamming email accounts from the City's email services;
- Adopting the identity of another person on any email message, attempting to send electronic mail anonymously, or using another person's password;
- Consuming the City's system resources or storage capacity on an on-going basis;
- Composing, forwarding, or displaying to others email that contains racial, religious, or sexual slurs or jokes, sexually explicit content, or harassing, intimidating, abusive, or offensive material to or about others; or
- Sending or receiving any software in violation of local, state, or federal laws.

SECURITY

Email security is a joint responsibility of the City's technical support staff and the email user. Users must take all reasonable precautions, including safeguarding and changing passwords, to prevent the use of unauthorized access to their email. Overriding or otherwise tampering with security systems shall be considered a serious breach of this Policy.

PRIVACY AND ACCESS

Email messages are **not** personal or private. Email messages originating from or received into the City's email system are the property of the City of Franklin.

The MIT Security Officer or others as designated with prior approval of the City Administrator may access an employee's email, as follows:

- for a legitimate business purpose (e.g., the need to access information when an employee is absent for an extended period of time);
- to diagnose and resolve technical problems involving system hardware, software, or communications;
- to review any message relevant to a lawsuit or other legal action involving the City;
- to investigate possible misuse of email when a reasonable suspicion of abuse exists or in conjunction with an approved investigation;

- to randomly check emails.

MANAGEMENT AND RETENTION OF EMAIL COMMUNICATIONS

(Applicable to all email messages and attachments)

Email messages will, by default, remain with the user for sixty (60) days. Users are encouraged to review the email, save it to a separate drive if the email message needs to be kept, and to then delete email messages from their local storage immediately thereafter in order to improve the performance and reduce system overload on the email servers. After sixty (60) days from originally being received, the email will automatically be purged from the user's email system and archived.

City email archives, due to storage limitations, will not be utilized as an indefinite archival storehouse for emails. All archived emails shall be permanently deleted from archives after two (2) years from the date the email message was originally received or sent. An exception shall be made for emails marked for litigation hold prior to their being automatically purged.

Should any user be notified of a potential or pending lawsuit, then said user shall immediately save any relevant emails required pursuant to state and federal law. Failure to adequately save all emails upon notification of potential or pending litigation may result in disciplinary action and/or a finding of contempt of court.

PUBLIC ACCESS TO EMAIL RECORDS

The City Administrator, or his designated appointee, shall accommodate members of the public who request access to email records, subject to the City's records production regulations.

Email that is created by any City staff is a public record. These records are subject to **Tennessee Public Records Law, TCA Code 10-7-503**, et seq., and the rules of the Public Records Commission.

USER RESPONSIBILITIES

The City of Franklin's users are responsible for:

- Reading, understanding and complying with this Policy;
- Honoring acceptable use policies of networks accessed the City's internet and email services;
- Abiding by existing federal, state, and local telecommunications and networking laws and regulations;
- Following copyright laws regarding protected commercial software or intellectual property;
- Minimizing unnecessary network traffic that may interfere with the ability of others to make effective use of the City's network resources;
- Not overloading networks with excessive data;
- Immediately notifying the Network Manager whenever it appears the security of the user's system or the city's network is in danger of compromise or is compromised by an event (i.e., hacker, virus, etc.);
- Including the user's name, department and telephone number in every message, except for an official law enforcement investigation;
- Considering organizational access before sending, filing, or destroying email messages;

- Protecting passwords;
- Removing personal messages, transient records, and reference copies in a timely manner;
- Complying with the City's policies, procedures and standards; and
- Following the Records Retention Policy.
- Posting on every email message sent the following notice:

This message has been prepared on resources owned by the City of Franklin, Tennessee. It is subject to the City's Policy for the Use of Computers, Internet and Email. Messages that are received or created by any City staff member may be a public record subject to Tennessee Open Records Act, T.C.A. §10-7-503, et seq., and the rules of the Open Records Commission. DO NOT COPY OR FORWARD TO UNAUTHORIZED PERSONS. This message may contain confidential information and is intended only for the use of the specific individual(s) to which it is addressed. If you are not an intended recipient of this message, you are hereby notified that any unauthorized use, dissemination or copying of this email or any information it contains is strictly prohibited. If you have received this message in error, please delete it and immediately notify the sender by reply email."

PERSONAL USE

The prohibitions in this policy shall not be construed to prohibit *infrequent and brief* use of the system for incidental personal matters by an employee during a meal or other personal break time. This is similar to an employee's limited ability to make a personal telephone call on personal time. For example, an employee may spend a minute or two looking at the weather radar online provided that in no event shall any such limited personal use include any activity otherwise prohibited by this policy.

VIOLATIONS

The City will review alleged violations of this policy on a case-by-case basis. Clear and willful violations or abuse of acceptable usage will be subject to appropriate disciplinary actions, depending upon the severity of the transgression and policy abuse, up to and including termination. Criminal or civil action may be initiated in appropriate instances.

User's access to internet and email may be suspended, with or without notice, when deemed necessary for the operation or integrity of the City's communications infrastructure, connected networks, or data.

REVISIONS

The City of Franklin, TN retains the right to edit and/or make changes to this policy as deemed necessary.

WAIVER OF PRIVILEGE NOT INTENDED.

Nothing contained within this policy is intended to waive any privileges provided by law.

NOTE: This policy supersedes any other policy statement adopted by The Board of Mayor and Aldermen.

CITY OF FRANKLIN, TENNESSEE
Acknowledgement of Terms and Conditions For
Computer, Electronic Equipment, Internet and Email Usage

I hereby acknowledge that I have received and read a copy of “Policy for the Use of Computers, Internet and Email” (“Policy”) and agree to the terms and conditions stated therein. Specifically, but not exclusively, I understand the following:

1. I understand all the provisions specified in the policy. I understand that all computers, electronic equipment, access to the internet and email systems are the property of the City, as is the information received from, transmitted by, or stored in these systems.
2. I understand that, except with respect to certain content deemed confidential by state and federal law, I have no expectation of privacy in connection with any email messages, the use of City equipment, or the transmission, receipt, or storage of information in this equipment. I understand that my correspondence in the form of electronic mail may be a public record under the public records law and may be subject to public inspection.
3. I acknowledge and consent to the City’s monitoring my use of city equipment, computer(s), the internet and email at any time the City deems it necessary in accordance with its policy. Monitoring may include saving, reading and printing out all electronic mail entered, stored in, deleted or disseminated by the City of Franklin’s system and equipment, including but not limited to retention of a history of websites visited and information obtained or sent.
4. I agree not to use any unauthorized code, access a file, or retrieve any stored information unless authorized to do so. I understand that this content is a condition of my employment and/or continued association with the City.
5. I recognize that a violation of this policy may result in disciplinary action, including possible termination.
6. I fully assume all legal liability for claims against the City of Franklin, Tennessee, relating my actions or inactions arising out of or relating to my use of computer, electronic equipment, internet and email usage in violation of this Policy.

EMPLOYEE - PRINT NAME

EMPLOYEE SIGNATURE

SUPERVISOR

DATE

This document will be retained in the employee’s personnel file.