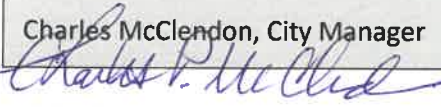


CITY OF CATHEDRAL CITY ADMINISTRATIVE POLICY			HR-AP 05
Approved by: Charles McClendon, City Manager 	Distributed by Human Resources	Original Date May 2018	

SUBJECT:

TECHNOLOGY USAGE AND ELECTRONIC COMMUNICATIONS POLICY

PURPOSE:

The city of Cathedral City encourages the use of electronic communications resources to share information in support of its mission of public service and to conduct its business. This policy governs the usage of “electronic communications resources” in the conduct of City business. Electronic communication resources include, but are not limited to, the Internet, e-mail, voice-mail, listserves, boards, cellular telephones, pagers, *personal* digital assistants, smartphones, Blackberry devices, computers/laptops, telecommunications devices, video and audio equipment, wireless networks, data systems, telecommunications equipment, transmission devices, data processing or storage systems, computer systems, servers, networks, input/output and connecting devices, software, and documentation that supports electronic communications services.

If a provision of this policy conflicts with a provision of the memorandum of understanding or department policy, the provision of the memorandum of understanding or department policy shall apply as to the covered employees

POLICY:

- A. Electronic Communications. The city’s e-mail system is an official communication tool for city business. An official e-mail address is established and assigned by the city to each employee. All city communications sent via e-mail will be sent to this address. City employees must use the official city e-mail, not their private e-mail address (such as yahoo, hotmail, etc.) or text messaging, when communicating electronically regarding city business so records can be properly managed.

Electronic communications resources must be used in compliance with applicable statutes, regulations, and city policies including those that require a work environment free from discrimination and harassment. Electronic communications should conform to the same standards of propriety and respect as any other verbal or written communication at the city. Employees are expected to use common sense and judgment to avoid any communication which is disrespectful, offensive or illegal.

The city, as the provider of access to its electronic communications resources, reserves the right to specify how those resources will be used and administered to comply with this policy. It is important to realize that the message content sent from the city’s account reflects upon the city (positively or negatively) to those who receive the message. Employees may be subject to disciplinary actions for using the electronic communications resources in a manner other than for their intended purposes or in a manner that violates applicable laws, rules and policies.

Electronic communications to recipients on systems outside the city pass through systems and networks not managed by the city. The privacy and confidentiality of these messages is, therefore, not assured. In addition, some delivery methods and networks impose legal restrictions regarding the nature of messages allowed. Users are expected to comply with all such regulations. Employees and other users of the electronic communications resources may create criminal and civil liability for themselves and the city by using outside or third-party systems in an offensive, defamatory or illegal manner and in such event employees and other users may be subject to disciplinary action up to and including termination.

The city's technical resources are provided for the benefit of the city and its residents or customers, visitors, vendors, and suppliers. These resources are to be used while conducting city business. They are to be reviewed, monitored, and used only in that regard, except as otherwise provided in this policy.

Access to networks and computer systems owned by the city imposes certain responsibilities and obligations on city employees and is granted subject to city policies. Appropriate use should always be legal, ethical, reflect honesty, reflect community standards, and show restraint in the consumption of shared resources. There is finite amount of bandwidth available at City Hall and high usage activities such as viewing videos, listening to audios, etc., limits the bandwidth available to others.

- B. Incidental *Personal* Use. Electronic communication resources are provided by the city to facilitate the performance of city work. Incidental *personal* use is secondary, and should not: (1) interfere with the city's operation of electronic communications resources; (2) interfere with the user's employment or other obligations to the city; or (3) burden the city with noticeable incremental costs. Incidental use of the city's electronic communications resources should indicate that the use is *personal*. Users of electronic communications resources shall not give the impression that they are representing, giving opinions, or otherwise making statement on behalf of the city unless appropriately authorized to do so. The city is not responsible for any loss or damage incurred by an individual as a result of *personal* use of the city's electronic communications resources.
- C. Privacy Limits. The California Public Records Act requires the city to disclose non-exempt public records upon request. In response to requests for such disclosure, it may be necessary to examine electronic communications records that users may consider to be *personal* to determine whether they are public records that are subject to disclosure.

All communications transmitted via the city's electronic communications resources, whether or not related to *personal* or confidential matters, are subject to monitoring, at the city's discretion. The city monitors communications transmitted via the city's electronic communications resources in the ordinary course of business for purposes that include ensuring their reliability and security. The existence of passwords and "message delete" functions do not restrict or eliminate the city's ability or right to access electronic communications.

Employees should not communicate their private, privileged, or confidential information, including but not limited to *personal* attorney client communications, financial or medical information and other privileged information, via the city's electronic communications resources. Employees who do communicate their private, privileged or confidential information via the city's electronic communications resources will be deemed to have waived any privilege or privacy rights in those communications, even where those communications are made via *personal* password-protected accounts using the city's electronic communications resources.

Employees should keep in mind that when they are using the city's computers, they are creating city documents using a city asset. The city's computer, e-mail, or telephone systems, and the data stored in them are to remain properties of the city. As a result, computer data, messages, e-mail messages, and other data are readily available to numerous persons. Work transmitted on the computer system and other technical resources may be subject to investigation, search, and review by others per this policy.

All information, including e-mail messages and files, created, sent or retrieved over the city's technical resources is the property of the city, and should not be considered private or confidential. Employees should be aware that any electronically stored information created, sent, or received from others may be retrieved and reviewed when doing so serves the legitimate business interests and obligations of the city. Even when a file or message is erased or a visit to an Internet/website is closed, it is still possible to re-create the message or locate the website.

The city reserves the right to monitor use of its technical resources at any time. All information, including text and images may be disclosed to law enforcement or to other third parties without prior consent of the sender or the receiver.

Additionally, the city may be required to produce information transmitted or stored on its electronic communications resources pursuant to a court order, subpoena, or statute.

- D. Restrictions. The information sources accessible via the Internet are worldwide and constantly growing in kind and number. It is not possible for any Internet access provider to fully manage the types of information accessible by its systems and users, especially with regard to content limitations. Nonetheless, the city reserves the right to restrict access to any data source, at its sole discretion. These restrictions do not constitute an implication of approval of other non-restricted sources.

Without exhausting all the possibilities, the following are examples of inappropriate use of the city's electronic communications resources:

1. Exposing others unwillingly, either through carelessness or intentions, to material which is offensive, obscene or in poor taste. This includes information which could create an intimidating, offensive or hostile work environment.
2. Any use that may, for a reasonable person, create or further a hostile attitude or give offense on the basis of race, color, religion, national origin, citizenship, ancestry, marital status, gender, disability, age, veteran's status or sexual orientation.
3. Communicating confidential city information to unauthorized individuals within or outside of the city.
4. Sending messages or information which is in conflict with applicable laws or city policies, rules or procedures.
5. Attempting to access unauthorized data or break into any city or non-city system.
6. Engaging in theft or the unauthorized copying of electronic files or data.
7. Performing acts that are wasteful of computer resources or that unfairly monopolize resources to the exclusion of others is prohibited. These acts include, but are not limited to, sending mass mailings or chain letters and creating unnecessary network traffic.
8. Intentionally misrepresenting one's identity.
9. Engaging in unlawful activities.
10. Engaging in commercial activity or activity for financial gain, not under the auspices of the city.

11. Engaging in political activities.
 12. Engaging in recreational use of the city's electronic communications resources that interferes with the ability of the employee or other users to conduct city work. This includes, but is not limited to, downloading or uploading software, games, or shareware. Employees are also prohibited from downloading and using instant messenger (IM).
 13. Accessing the electronic communications resources with another employee's password.
 14. Unauthorized review, duplication, dissemination, removal, installation, damaging, or alteration of files, passwords, computer systems or programs, or other property of the city, or use of information obtained by unauthorized means, is prohibited.
 15. Use by the city council, advisory board members, or staff that would violate the Brown Act.
- E. Retention Period for E-Mails. All e-mails on the city's electronic communication resources will be automatically saved for 30 days. After this 30-day period expires, the messages will be deleted unless a separate file has been created for storage in which case they will be accessible and a matter of public record.

Individuals are responsible for ensuring that all pertinent e-mail files are properly managed, just as other paper mail. The e-mail system, or any electronic communication resource, should not be considered long-term storage for project files.

- F. Software Policies. Employees are prohibited from installing software on any city technical resource without the express prior written permission from the IS department. Employees may not copy software from the city for *personal* use.
- G. Copyrighted Materials. Employees should not copy and distribute copyrighted material (e.g., software, database files, documentation, articles, graphics files, and downloaded information) through the e-mail system unless they have confirmed in advance from appropriate sources that the city has the right to copy or distribute the material.
- H. Transmitting any materials in violation of any federal, state, or local laws, ordinances or regulations is prohibited; failure to observe a copyright may result in disciplinary action by the city and legal action by the copyright owner.

Any questions concerning these rights should be directed to the IS department manager.

- I. Employee Responsibilities. Each employee is responsible for the content of all text, audio, or images that they place or send over the city's technical resources. Employees may access only files or programs that they have permission to enter.

Violations of any guidelines in this policy may result in termination of access to the Internet and may also result in disciplinary or legal action up to and including termination of employment, and/or criminal or civil penalties or other legal action against the employee.

The department of human resources will determine, through investigation, any violation to this policy and the appropriate disciplinary action and will work with supervisors if disciplinary action is necessary.

- J. Special Policies for Use of Electronic Communication Devices at Public Meetings. This provision governs the use of all types of electronic devices that are designed or may be utilized to electronically communicate, or to process, transmit or store information, such as computers,

cellular telephones, smart phones, iPads, tablets or similar (“electronic communication devices”) by the city council, and all city board, committee and commission members (“city officials”) and employees during meetings that are open to the public and subject to the Brown Act (“public meetings”). For purposes of this provision, the use of the phrase “participating in a public meeting” for city officials means that the city official is sitting at the dais and the public meeting is in session, and the use of the phrase for “city employees” means that the employee is required to attend the public meeting in order to fulfill some job related function as a city employee (e.g., to present a staff report or discuss a project that he or she has worked on with the council, board, committee or commission) and not just volitionally, voluntarily or for their own *personal* purposes, to observe the public meeting, and that the public meeting is in session. This provision is intended to promote the proper use of electronic communications devices by city officials and employees while participating in public meetings in order to ensure that all public meetings are conducted in accordance with all applicable laws, rules and regulations, including, without limitation, the Ralph M. Brown Act (“Brown Act”); to ensure that all hearings and deliberations that occur during public meetings comply with due process and result in a complete administrative record; and to preserve proper decorum preventing behavior that might lead to the perception that the public official is not fully engaged.

1. Use of Electronic Communications Devices to Send and Receive E-Mail and Text Messages by City Officials Participating in Public Meetings. A city official participating in a public meeting shall not use an electronic communications *device* to communicate with another city official participating in the same public meeting, or any other person with respect to matters that are the subject of the public meeting. While not strictly prohibited, use of an electronic communications *device* by a city official while participating in a public meeting to communicate with persons other than another city official participating in the same public meeting on matters that are not the subject of the public meeting is highly discouraged, except in emergency situations. Therefore, while participating in a public meeting, a city official may: (a) send or receive e-mail and text messages to and from family members or family caregivers where absolutely necessary for the care of that family member, in the reasonable discretion of the city official; and (b) send or receive e-mail and text messages that must be sent or received to address urgent business matters of the city official, that do not involve city business, in the reasonable discretion of the city official.

2. Use of Electronic Communications Devices by City Employees to Send and Receive E-Mail and Text Messages during Public Meetings—Telephone Calls. A city employee shall not use an electronic communications *device* to communicate with a city official who is participating in a public meeting. While not prohibited, the use of electronic communications devices by city employees to send and receive e-mail and text messages while participating in a public meeting is highly discouraged, except when absolutely necessary in the reasonable discretion of the employee. Therefore, while participating in a public meeting, a city employee may: (a) send or receive e-mail and text messages to and from family members or family caregivers where absolutely necessary for the care of that family member, in the reasonable discretion of the employee; and (b) send or receive e-mail and text messages that must be sent or received to address matters related to city business, in the reasonable discretion of the city employee. A city employee shall not use an electronic communications *device* to make or receive a phone call during a public meeting while in the room where the public meeting is being held. City employees shall ensure that all ringers or other features of electronic communications devices that make any sound or noise are disabled when entering a public meeting. In no event shall using an electronic communications *device* by a city employee to send or receive e-mail or text messages or make or receive a phone call disturb or interfere with a public meeting.

3. Use of Internet by City Officials. The use of electronic communications devices by a city official participating in a public meeting to access the Internet is prohibited, with the following exception: the Internet may be used to access the agenda packet and all documents that compose that packet for the public meeting that the city official using the electronic communication *device* is participating in.
 4. Use of Internet by Employees. The use of electronic communications devices by employees to access the Internet while participating in a public meeting is discouraged, with the following exceptions: (a) the Internet may be used to access the agenda packet for the public meeting; (b) the Internet may be used to access other city documents that are relevant to topics being discussed at the public meeting in the reasonable discretion of the city employee; and (c) the Internet may be used to do research on topics that are the subject of the public meeting in the reasonable discretion of the city employee. In no event shall using an electronic communications *device* by a city employee to access the Internet disturb or interfere with a public meeting.
 5. Public Records Act. All city records whether paper or electronic are governed by the public disclosures requirements of the California Public Records Act (“PRA”). Therefore, any information sent or received by public officials or employees on either city-owned or *personal* electronic communications devices during public meetings, that pertains to city business and otherwise qualifies as a non-exempt public record under the PRA will be subject to disclosure upon request.
 6. Due Process. The federal and California constitutional guarantee of due process require that all relevant evidence considered during hearings or deliberations that take place during public meetings on matters that involve protected rights such as land use applications and permit and license grants, denials or revocations (“hearing”), be introduced into and made part of the public record. Therefore, any information sent or received by city officials on electronic communications devices prior to or during a hearing that the public official relies on in making his or her decision (“material information”), must be disclosed and made part of the public record. Public officials shall disclose material information prior to the close of the public hearing or public comment portion of the hearing, whenever practicable, and in every event, before any action is taken on the item at the hearing.
-