

**COLMA ADMINISTRATIVE CODE**

**CHAPTER THREE – PERSONNEL POLICIES**

**SUBCHAPTER 3.08 – EMAIL AND OTHER ELECTRONIC COMMUNICATIONS**

**3.08.010 Style and Purpose**

(a) The purpose of this subchapter is to provide guidance to employees regarding the proper and authorized use of the Town's Electronic Communication Systems (including the Town's E-Mail System).

(b) An employee with any questions regarding the implementation of this policy should contact his or her supervisor who may then contact the City Attorney's office for legal questions, such as an interpretation under the Public Records Act; the City Clerk's office regarding the Records Retention Policy; or the Information Technology Officer regarding any technical issues related to the use of the Electronic Communications System.

(c) Each previous administrative policy or regulation regarding the use of the Town's Electronic Communication Systems which is inconsistent with this regulation is hereby repealed.

(d) The City Manager shall be and hereby is authorized to adopt regulations and procedures to implement this policy.

**3.08.020 Definitions**

As used in this subchapter:

"Electronic Communication" means any communication or writing created by, retrieved by, sent to, or stored by any employee using the Town's Electronic Communication System, including all information, data, and attachments to the communication.

"Electronic Communication System" means the system of devices (including hardware, software, and other equipment) used by the Town for the purpose of facilitating the transmission and storage of electronic information (including the E-Mail System, telephones, radios, computers, and all peripheral devices such as hard drives, disks, CDs, DVDs and flash ["thumb"] drives).

"E-Mail" means any Electronic Communication to or from any employee using the Town's E-Mail System, including all information, data, and attachments to the communication.

"E-Mail System" means the system of devices (including hardware, software, and other equipment) used, owned, and provided by the Town for the purpose of facilitating the electronic transmission of information, including internet communications, and the Town's use of *Microsoft Outlook* program (including E-Mail, Calendar, and Tasks).

"Information Technology Officer" or "IT Officer" means a qualified computer technician or consulting company appointed or selected by the City Manager to administer the Town's Electronic Communications System;

"Public Record" means any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by the Town regardless of physical form or characteristics.

"Public Records Act" means California Government Code sections 6250, et seq.

"Records Retention Policy" means the Town's Records Retention Policy and Detention, as set forth in Chapter One, Subchapter Seven of the Colma Administrative Code.

"Writing" means, as defined by California Government Code section 6252(g), any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.

### **3.08.030 Passwords**

(a) Each department head will maintain a list of all passwords for access to the Town's Electronic Communication System of employees in that department and will periodically review the password(s) of each employee with the employee to assure the accuracy of the password list.

(b) It is the employee's responsibility to report any change in their password.

(c) Employees are prohibited from the unauthorized use of the passwords of other employees.

### **3.08.040 No Privacy Right**

(a) No employee shall have any expectation of privacy regarding the content of any Electronic Communications on the Town's Electronic Communication System.

(b) The Town's Electronic Communication System and all Electronic Communications are the property of the Town. The Town has the right, but not a duty, to inspect or audit any and all Electronic Communications, at any time, for any lawful purpose, without notice to any employee.

(c) Employees are hereby notified that the IT Officer has the ability to read each file in the Town's Electronic Communication System, even if the file has been password-protected by the user. The Town has the right, but not the duty, to use this ability to inspect or audit Electronic Communications, as stated above.

### **3.08.050 Preparing and Using Email**

(a) An employee shall prepare Electronic Communications in a lawful, ethical, professional, and businesslike manner, and must comply with all Town policies and procedures. The use of the Town's Electronic Communication System is a privilege which may be revoked by the Town at any time.

**3.08.060 Reserved.**

**3.08.070 Email for Transmission Not Storage; Transfer of Messages to Storage**

(a) The Town provides the E-Mail System to employees as a convenient and efficient method of rapidly communicating transitory information in an electronic format. The E-Mail System is specifically intended and designed to be a tool for transmission of information, and not a tool for storage of information. Each employee is expressly forbidden to use email system for permanent storage of Electronic Communications. Each employee should regularly and routinely empty mail inboxes and outboxes by: (1) deleting emails that are not related to official public business and otherwise not considered "Public Records," and (2) by preserving emails that constitute Public Records pursuant to this subchapter.

(b) Each employee shall regularly review and preserve or delete E-Mail in his or her Town email account pursuant to the schedule set forth in this subchapter and the Town's retention schedule.

(c) Since information on the Town's E-Mail System is automatically purged, each employee who sends or receives an email message that can be considered a Public Record shall transfer the message from the Town's E-Mail system to a records storage medium, such as printing a hard copy and storing the copy in a file folder, or moving the E-Mail to an electronic folder within the Town's computer network. Town E-Mails that constitute Public Records must not be permanently stored on individual PCs, individual laptops, or peripheral devices (CDs, DVDs, flash drives).

**3.08.080 Duty to Protect the Electronic Communications System**

Each employee shall take all reasonable and necessary efforts to prevent unauthorized intruders from accessing the Town's Electronic Communications System and prevent the introduction or spread of computer viruses. Specifically, but without limitation, employees:

- (1) Shall not download any executable file (for example, a file with ".exe" or \_\_\_ at the end of its name), program, game, toolbar or utility without permission of the IT Officer;
- (2) Shall not open email from unknown sources with attachments;
- (3) Shall promptly notify the City Manager or IT Officer if the employee believes that his or her computer has been downloaded or received any virus, worm, pornographic images, sexually explicit messages, and sexually explicit graphic, ethnic or racial slurs.

**3.08.090 Duty to Protect Confidential Information**

(a) Whenever an employee possesses "confidential" information, the employee has an obligation to take all reasonable and necessary steps to protect the confidentiality of the information and minimize the likelihood of inadvertent transmission of the confidential information to unintended recipients. An employee with any questions regarding the

implementation of this section should contact his or her supervisor who may then contact the City Attorney's office for legal questions.

(b) An employee shall treat information as "confidential" if there is any reasonable possibility that the information relates to a Town personnel matter such as personal information, financial information, or medical information; if a party claims that it is valuable, proprietary information not generally known to the public; or if it could potentially expose the Town to liability.

(c) An employee with the care and custody of confidential information shall be responsible for determining which other employees (or possibly private attorneys or consultants hired to represent the Town) are authorized recipients of the information. Generally, only people with a "need to know" the confidential information are authorized recipients. employees with any questions as to who is an authorized recipient for confidential information shall contact the City Attorney's office.

(d) An employee shall not communicate confidential information to any person other than an authorized recipient, or forward a confidential E-Mail to any unauthorized recipient.

### **3.08.100 Other Prohibited Uses**

The following uses of a Town computer are prohibited:

- (1) Installing programs from outside the Town on the Town computer system;
- (2) Copying software programs;
- (3) Copying copyrighted material;
- (4) Using a Town computer for personal purposes, except where such use is occasional, necessary and minimal;
- (5) Use of the computer commercial ventures, religious or political causes, or other non-job-related solicitations;
- (6) Viewing or downloading pornographic images;
- (7) Transmitting or storing sexually explicit messages, cartoons, ethnic or racial slurs;
- (8) Using the Town's information systems in any way that may be disruptive or offensive to others, including, but not limited to, or anything that may be construed as harassment or disparagement of others;
- (9) Disguising or attempting to disguise the origin of an E-Mail, except when authorized by the Chief of Police for a criminal investigation; and
- (10) Accessing another employee's E-Mail unless authorized by: the other employee, the other employee's supervisor, or the City Manager.

### **3.08.110 Deleting Non-Records and Preserving E-Mails**

(a) For E-Mails sent or received by an employee on the Town's Electronic Communications System that do not constitute Public Records, every employee shall delete the E-Mail as soon as the information is no longer required or convenient for the discharge of the employee's duties, and the E-Mail shall be automatically purged by the Town in accordance with the schedule set forth in this subchapter.

(b) All information on the Town's E-Mail System, including unopened email, shall be subject to automatic purging (deletion) by the Town, without any notice to employees, in accordance with the schedule set forth below. The purging schedule shall be as follows:

- (1) Calendar, tasks, and note entries shall be purged after two years.
- (2) All E-Mail messages shall be purged two years after sent or received.

(c) For each E-Mail sent or received on the Town's Electronic Communications System, each employee shall determine whether or not there is information on the E-Mail which constitutes a Public Record or is otherwise required to be retained for the discharge of the employee's official duties for the Town. This determination shall be made using the same criteria which is applied to information sent or received by the employee using any other means of communication. An employee with any question (as to whether a particular category of information is required to be retained) shall consult with their supervisor, and supervisors shall consult with the City Attorney's office. Categories of information which are typically retained by the Town include: (1) any information or records regarding official public business and are thus required by law to be retained; (2) documentation of notice to a member of the public of an action or position taken, or an action or position to be taken, on behalf of the Town; (3) documentation of a Town policy, Town regulation, or official decision made on behalf of the Town; or (4) documentation of the transaction of business between the Town and another party.

(d) If an E-Mail contains information which is required to be retained, the employee can leave the E-Mail in their respective Outlook account (inbox, deleted or other) as it will be retained for two years consistent with the purging schedule set forth in this subchapter. However, if the employee believes they will need the E-Mail longer than two-years for purposes of on-going Town business, the Employee shall transfer the required information from the Town E-Mail to an appropriate public record storage system (such as printing the E-Mail on paper or electronically filing it on the computer in a folder other than the Archives folder) before it is deleted or purged from the Town E-Mail System.

(e) The "Archive" feature of the E-Mail System is not available for use as a record storage system. The "Archive" feature of Microsoft Outlook shall be disabled. An employee shall not manipulate settings in the E-Mail System in an attempt to use the "Archive" feature or in an attempt to bypass the automatic purge cycle set by the Town.

### **3.08.120 Preservation of Documents for Pending Litigation, Subpoenas, Public Records Act Requests, and Claims Against the Town**

Notwithstanding anything to the contrary in this subchapter, each employee shall, upon distribution of a notice of pending litigation from the City Manager or City Attorney, have a duty

to preserve and retain Town E-Mails and other outside electronic communications that are relevant to the pending litigation. Such documents shall be transferred to a records storage medium and stored there until conclusion of the litigation.

In addition, the Town periodically receives requests for records under the Public Records Act, as well as subpoenas or court orders for documents and claims filed against the Town under the Government Claims Act. In the event that a records request or subpoena includes Town E-Mails, or an Town E-Mail is related to the subject matter or incident in a claim, Town personnel who have control over or access to any such E-Mails shall use their best efforts, by reasonable means available, to temporarily preserve any such E-Mail until it can be determined whether the E-Mail is subject to preservation, public inspection or disclosure. Town personnel must contact the Town Clerk regarding any such E-Mails that are within their control.

### **3.08.130      Violations; Duty to Report**

(a)      Violation of this subchapter is subject to discipline up to and including termination.

(b)      Any employee who knows of potential criminal activity involving the use of any Electronic Communication shall immediately report the activity to the employee's supervisor. The supervisor shall immediately report the activity to the Investigative Unit of the Police Department and the Personnel Manager.