



Electronic Message Policy

Last Updated: 10/9/2015	Effective Date: January 1 st , 2016
Related Polices: Technology Use Policy	Approved By: Noel Treat, City Manager
Code and Statutory Authority: Chapters 40.14 and 42.56 RCW	

Purpose

The City of Mercer Island, hereinafter referred to as "City," is subject to Chapters 40.14 RCW and 42.56 RCW which describe the preservation and destruction of public records as well as the public's rights and abilities to access those records. E-Mail, text messaging and instant messaging communications are considered public records and as such the City must enact associated policies and procedures in order to comply with these laws. The purpose of this policy is to establish:

1. Acceptable methods for transmitting and receiving electronic messages and mail;
2. Retention periods for E-Mails sent or received by City employees and officials; and
3. Guidelines for training, auditing and enforcement of this policy.

Definitions

- **Electronic Message(s)**

For purposes of this policy, Electronic Message(s) includes ANY means of typed messages transmitted or received electronically, except E-Mail. This includes SMS, text messaging, SMS, instant messaging, social networking applications, mobile phone applications, desktop applications, or any other software used for transmitting or receiving electronic communications.

- **Electronic-Mail (E-Mail)**

A means or system for transmitting messages electronically between users of networked computing devices through electronic mail server systems such as Microsoft Exchange or SendMail. Traditionally these systems use Simple Mail Transfer Protocol (SMTP) standards to transmit and receive electronic mail between organizational domains such as mercergov.org as defined through Request for Comments (RFC) by the Internet Engineering Task Force (IETF).

- **Litigation Hold Notice**

For purposes of this policy, a "Litigation Hold Notice" is issued in writing by the City Attorney's Office for the following purposes: (1) to provide notice that a lawsuit has been filed against the City or is "reasonably anticipated" in the future; (2) to direct certain City staff to identify and locate records (paper, electronic, audio / video recordings, photographs and any other "writing" as that term is

defined in the Public Records Act, chapter 42.56 RCW) pertaining to the pending lawsuit or anticipated litigation; (3) to place a “hold” on such records so that routine destruction procedures are suspended, and (4) to preserve new records generated or received after the Litigation Hold Notice is given. The City could be exposed to possible liability and/or court sanctions if the purposes of the Litigation Hold Notice are not met.

- **Retention**

The secure, yet easily accessible, storage of a public record such that it cannot be destroyed or lost through accidental means.

- **Substantive City Business**

Information that refers to or impacts the actions, processes and functions of the City.

Authorized Use of Electronic Messaging and Mail for City Business

Employees shall ONLY conduct substantive City business via City E-Mail (per the Technology Use Policy in the Employee Handbook). The use of personal E-Mail accounts (such as Hotmail, Gmail or the like) for conducting ANY City business is prohibited.

Employees shall NOT use any other means of electronic messaging to conduct substantive City business (per the Technology Use Policy in the Employee Handbook).

Electronic messages may only be used for communications of transitory records as defined in the Washington State Local Government Common Records Retention Schedule (CORE Schedule). For example, a text message to a co-worker stating: “I’m running late” is a transitory record.

Electronic messages shall be deleted as soon as possible. In most cases, a transitory text may be deleted once it is sent or it is read by the receiver. The City does not employ mechanisms, technology or otherwise, to capture electronic messages sent or received by City employees. It is the responsibility of each City employee to ensure adherence to City policies regarding such messages.

E-Mail Retention

E-Mails will be retained based upon the following retention groups:

Group 1 - Permanent

- Retention Period – E-Mails sent or received by members of this group shall be retained permanently. E-Mails will be stored on systems which the member or authorized City employee has direct and ongoing access.
- Group Membership – The members of this group shall include and be strictly limited to the following City employees:
 - Elected Officials
 - City Manager
 - Deputy or Assistant City Managers
 - City Attorneys
 - Department Directors
 - Public Infrastructure Engineers

- Public Infrastructure Managers
- Emergency Manager

Group 2 - Seven Years

- Retention Period – E-Mails sent or received by members of this group shall be retained for a period of seven years based on the sent date of the message. E-Mails will be stored on systems which the member or authorized City employee has direct and ongoing access. All messages sent or received by members of this group that were sent more than seven years prior will be deleted from City systems.
- Group Membership – The members of this group shall include and be strictly limited to the following City employees unless the employee qualifies for the permanent retention group:
 - City Clerks
 - Deputy or Assistant Directors
 - Finance Department Employees
 - Human Resource Department Employees
 - Police Department Employees
 - Fire Department Employees
 - Building Officials
 - Building Inspectors
 - Code Enforcement/Compliance Officials
 - Facility Manager

Group 3 - Two Years

- Retention Period – E-Mails sent or received by members of this group shall be retained for a period of two years based on the sent date of the message. E-Mails will be stored on systems which the member or authorized City employee has direct and ongoing access. All messages sent or received by members of this group that were sent more than two years prior will be deleted from City systems.
- Group Membership – The members of this group shall include all City employees who are not a member of another retention group.

Training

Upon adoption of this policy, all City employees will be required to attend training on this policy and acknowledge in writing that they are aware of this policy and procedures, have received the necessary training, understand their responsibilities and know how to comply with the policy, specifically including Litigation Hold Notice instructions and procedures.

Every new City employee will be given training on this policy within one month of his/her hire date.

At least annually, Department Directors will be responsible for reviewing this policy with all department employees and maintaining the records of attendance.

Auditing

The City Clerk will maintain an audit log and coordinate with Department Directors to monitor compliance with the training and annual review requirements.

Enforcement

Failure to comply with this policy could lead to corrective actions up to and including termination of employment.

Department Directors and/or supervisors are responsible for the enforcement of this policy.

Updates and Exceptions

Any new communication tools or technologies must be reviewed and approved by the City Attorney's Office, City Clerk and IT Director before use and implementation.

Requests for exceptions to this policy must be made in writing to the City Clerk and be approved by the requesting employee's Department Director, City Attorney, and City Manager and kept on file in the City Clerk's office for the duration of the approved retention period.