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YAMHILL COUNTY

Policy and Procedure Manual

Section 4

Subject: **Employee Use of County Electronic Mail (E-mail)**¹

Board Order 99-350
Effective May 27, 1999
Revised November 6, 2014

1. GENERAL

Electronic mail (e-mail) messages are within the scope of the Public Records Law and Records Retention Law. Because of this the County has developed the following policy for use of the County's e-mail system by County employees and the retention of e-mail messages.

2. STATUS OF E-MAIL MESSAGES

a. All e-mail messages are considered County records. The County reserves the right to access and disclose all messages sent over the e-mail system for any purpose, including the right to disclose e-mail messages to law enforcement officials without prior notice. There shall be no expectation of privacy in the use of e-mail on the County system.

b. Subject to the following provisions, e-mail messages may be accessed and reviewed by the department head, the department head's designee, or County Counsel.

In general, there are two methods of accessing e-mail messages; 1) Real-time (or live) - access to messages viewed as they are being sent and received and, 2) Stored - messages which have been sent and received previously and are already stored in the system. The ability to access e-mail messages via either of these two methods is a privilege retained by the County.

(1) Real-time access may be only used on a time limited basis, and only when a compelling reason for such access exists. For purposes of potential discipline, suspected misconduct, or other reasons that may involve e-mail and be deemed necessary by the County Administrator, real-time access to e-mail messages will be enabled to the parties listed in this paragraph (b) for a limited period of time. The length of this period of time will be determined by the County Administrator, but will typically not exceed two weeks per occurrence. Unless a previous discovery of serious misconduct has been found involving the use of e-mail, any access, (via stored or real-time methods), to the e-mail of an employee or another authorized user of the County e-mail system will be limited to once per six calendar month period unless a compelling reason exists for an exception to this limit.

(2) Access to stored messages will similarly be subject to the above (2 (b)(1)) provisions

¹ This policy is Exhibit "C", "Policy on Electronic Mail (E-mail)", Board Order 99-350 which addresses county policy relating to employee use of computers, telephones, and e-mail.

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and purposes – potential discipline, suspected misconduct, or other reasons that may involve email and be deemed necessary by the County Administrator.

All access to e-mail information to those parties listed in this section will only be granted or enabled only when approved and authorized by the County Administrator.

c. The County retains the discretion to assert any applicable privileges and objections if a public records request or discovery request is made for any County e-mail. An employee desiring that the County assert a privilege or objection under the public records law with respect to County e-mail shall notify the department head who in consultation with County Counsel, shall make a final determination.

3. USE OF E-MAIL

a. County business. E-mail is to be used for matters that pertain directly to the business of the County. E-mail communications must be professional in content and appropriate to a governmental agency.

b. Personal use. With the permission of the department head and subject to any additional limitations imposed by the department head, e-mail may be used for personal communication on an occasional, infrequent basis. Significant personal use is prohibited. Misuse or overuse may be the basis for disciplinary action. To the extent possible, personal use of e-mail shall be conducted on breaks or off-hours. For purposes of disclosure and access, personal e-mail messages are subject to the same rules established by this policy for any other e-mail message.

c. Use for charitable or non-profit purposes. Unless expressly authorized by the department head as a matter of county concern, employees shall not use e-mail for non-profit or charitable activity not sponsored by the county.

d. Prohibited use. Use of e-mail for non-County business activities, outside business activities, or activities for personal gain is prohibited unless specifically authorized, in writing, by the department head and County Counsel. Employees are strongly cautioned that such use likely constitutes a violation of the Oregon Ethics Code and may result in civil liability for the employee. Except for elected officials, county employees shall not use e-mail for political activity.

e. Reading e-mail of other employees.

(1) Except as authorized in subsection (b), an employee shall not read, forward, delete or in any way access e-mail repositories or the e-mail of another employee without that employee's permission.

(2) E-mail messages may be accessed and read by the department head or the department head's designee, or County Counsel, subject to the provisions stated in paragraph 2(b) of this policy.

f. Identification of e-mail. All e-mail messages shall be clearly identified as to author. Anonymous messages are prohibited.

4. **RETENTION OF E-MAIL**

a. Because e-mail messages sent or received by County employees in connection with County business are public records, they are subject to the same retention requirements as hard copy documents. In the e-mail context, "retention" means "do not delete". E-mail messages must be retained even if they are confidential, privileged, or otherwise exempt from disclosure under the Public Records Law. The retention and disposition of public records is authorized by retention schedules issued by the Secretary of State Archives Division. Records may be retained in hard copy or electronic format. If a hard copy of the e-mail message is printed, then the electronic version may be deleted. The hard copy must then be kept as long as required by the applicable retention schedule. There will be no expectation that the County, through its Information Technology Division or otherwise, will be responsible for the required retention of e-mail as required by Public Records Law.

b. Employees have a responsibility to be familiar with the retention schedules applicable to County records and to ensure that the e-mail messages they send or receive are retained in accordance with the appropriate records retention schedules (OAR Chapter 166, Division 150). **Employees shall not delete any e-mail message unless its retention period has expired or it has been printed out as a hard copy to be retained in accordance with the applicable retention period.**

c. Questions about retention of e-mail messages (or other public records) generally or questions about specific retention schedule timelines or requirements should be directed to County Clerk or County Counsel.

5. **VIOLATIONS OF POLICY**

Employees who violate any provision of this policy are subject to disciplinary action up to and including discharge, subject to applicable collective bargaining agreements. In the case of ethics violations, employees may be subject to personal liability, including proceedings under the Oregon Government Standards and Practices Commission.

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