

RESOLUTION NO. 240

**A RESOLUTION ADOPTING A POLICY REGARDING THE USE OF E-MAIL
AND THE INTERNET ON COMPUTERS OWNED BY THE TOWN OF MOUNT
CARMEL, TENNESSEE**

WHERAS, the Municipal Technical Advisory Service recommends each town and city in the State of Tennessee have a written policy on employee and elected official use of the internet; and

WHEREAS, the Municipal Technical Advisory Service has drafted a recommended policy which is attached hereto; and

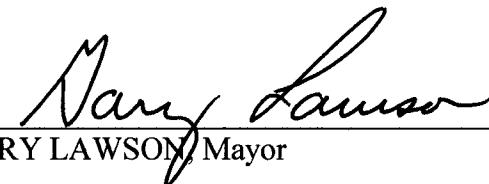
WHEREAS, a clear and usable policy will aid in the effective and efficient administration of personnel matters for the town; and

WHEREAS, the public welfare requires it;

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN FOR THE TOWN OF MOUNT CARMEL, TENNESSEE AS FOLLOWS:

Section 1. The E-mail and Internet Policy attached hereto is hereby adopted as the official policy of the Town of Mount Carmel, Tennessee.

Section 2. This resolution shall take effect upon its passage.



GARY LAWSON, Mayor

ATTEST:



NANCY F. CARTER, Recorder

APPROVED AS TO FORM:



LAW OFFICE OF MICHAEL A. FAULK

FIRST READING	AYES	NAYS	OTHER
GEORGE PIERCE	✓		
HENRY BAILEY	✓		
EUGENE CHRISTIAN	✓		
PAUL HALE	✓		
GARY LAWSON, MAYOR			
THOMAS WHEELER	✓		
WANDA WORLEY	<i>absent</i>		
TOTALS	5	0	0

PASSED FIRST READING: Aug 28 - 2001

THE TOWN OF MOUNT CARMEL, TENNESSEE **POLICY FOR THE USE AND MONITORING OF E-MAIL**

1. Purpose and Scope.

The Town provides electronic mail (e-mail) to employees for their uses in performing their duties for the Town. These materials explain the Town's rules and expectations for the proper use of electronic mail. This document also sets forth the Town's policy with respect to when e-mail messages may be monitored by other people within the Town, as well as the circumstances under which e-mail may be granted to external users, such as other government's employees, special law enforcement task-force members, pursuant to a lawful subpoena, etc.

All electronic mail is a local government record and may be considered a "public record" for the purposes of the Tennessee Public Records Act, certain e-mail communications may be open to public access and inspection. In addition, such communications may be subject to discovery under the *Tennessee or Federal Rules of Civil Procedure*.

2. Background.

Benefits of E-mail. The Town finds that e-mail provides many benefits to the Town and its employees. E-mail often improves communication between different departments, reduces paperwork, allows communication with many other governmental offices almost instantaneously, and generally facilitates the smooth operation of Town services.

3. Ownership.

All electronic systems, computers, and other hardware, software, temporary or permanent files, and any related systems or devices used in the transmission, receipt, processing, or storage of e-mail are the property of the Town of Mount Carmel. E-mail messages are considered to be Town property. Also, they may be retrieved from storage even after they have been deleted by the sender and the recipient.

4. Responsibilities.

Records Manager. The Town will designate a records manager who will be designated as a coordinator for public records generated by e-mail. It is the responsibility of this individual to accommodate members of the public who request access to e-mail. The records manager will also keep a log on the use of public access to the system and develop an efficient procedure to be used for public access to e-mail communications. The records manager may also provide and/or coordinate user training.

Individuals Requesting Access to E-mail. Depending on the circumstances and resources, searches requested pursuant to the Public Records Act will be made either by the requestor or a Town representative. Any requestor claiming a qualified disability will be accommodated by the Town in accordance with the Americans With Disabilities Act.

5. Statement of Policy and Overview of Usage.

Policy. It is Town policy that the e-mail system, like other Town assets, is used only for the benefit of the Town. Use of e-mail that violates Town policies or state and/or federal law is prohibited and may lead to disciplinary action up to and including termination. All employees who use e-mail will certify that they have read and fully understand the contents of this policy by signing the attached acknowledgment. Any and all statements and opinions made by individuals using e-mail, whether implied or expressed, are those of the individual and not necessarily the opinions of the Town or its management.

Privacy. Employees should be aware that e-mail messages may be read by others for a variety of valid reasons. Although this statement applies to many other types of Town correspondence, the informal nature of e-mail may lead one to forget or ignore the fact that e-mail is not the private property of the sender or the recipient, even if passwords or encryption codes are used for security reasons.

Monitoring. The Town reserves the right to monitor messages under certain circumstances, as enumerated in this document. Supervisors have the authority to inspect the contents of any equipment, files, calendars, or electronic mail of their subordinates in the normal course of their supervisory responsibilities and without the express permission from the user(s). An individual qualified in data management shall extract stored e-mail messages when requested to do so by authorized supervisory personnel.

Reasons for monitoring or retrieving e-mail messages include the following:

- during the course of an investigation that has been triggered by indications of impropriety;
- when it is necessary to locate substantive information relevant to a breach of security of the e-mail system;
- at any time there may be system hardware or software problems;
- for regular system maintenance;
- any messages relevant to a lawsuit or other legal action involving the Town; and a suspicion of a crime or a violation of this policy.

The Town will disclose any e-mail message to law enforcement officials if legally required to do so. In addition, e-mail messages may be retrieved if there is a need to perform work or provide a service when the user-employee is unavailable.

Personal Use. If employees make incidental use of e-mail to transmit personal messages, those messages will be treated no differently than other messages and may be accessed, reviewed, copied, deleted, or disclosed. You should not expect that a message will never be disclosed to or read by others beyond its original intended recipient(s).

Authorized Uses. Supervisors or department heads may authorize the use of e-mail to send and receive messages and to subscribe to list-servers from recognized professional or trade organizations and entities relating to the official duties of the Town. All employees are authorized to use e-mail as they would any other official Town communication tool. Communication by e-mail is encouraged when it results in the most efficient or effective means of communication.

Uses Subject to Approval. The following uses require written approval of the employee's supervisor or department head:

- Using hardware, related computer equipment, and software not owned or purchased by the city for e-mail related to Town business.
- Reading electronic mail of another employee without prior written approval. However, an employee's supervisor may inspect the contents of e-mail pursuant to the section entitled "ownership" in this policy.
- Encrypting any e-mail message unless specifically authorized to do so and without depositing the encryption key with the computer administrator or your immediate supervisor prior to encrypting any messages. If an employee is allowed to encrypt e-mail, this does not mean that e-mail is intended for personal communication nor does it suggest that encrypted e-mail messages are private property of the employee.

Prohibited Uses. The following actions are prohibited.

- intercepting, eavesdropping, recording, or altering another person's e-mail message;
- forwarding a message sent to you without the sender's permission, including chain letters;
- adopting the identity of another person on any e-mail message, attempting to send electronic mail anonymously, or using another person's password;
- misrepresenting yourself or your affiliation with the Town in any e-mail message;
- composing e-mail that contains racial, religious, or sexual slurs or jokes, or harassing, intimidating, abusive, or offensive material to or about others;
- using e-mail for any personal, political, commercial or promotional purpose, including personal messages offering to buy or sell goods or services;
- using e-mail to conduct employee organization, association, or union business; and
- sending or receiving any software in violation of copyright law.

6. Confidential Information.

Employees must exercise a greater degree of caution in transmitting confidential information via e-mail than other forms of communications. Why? Because it paves the way for another person to redistribute such information almost effortlessly. Confidential information should never be transmitted or forwarded to other employees inside or outside the Town who do not have a “need to know.” To reduce the chance that confidential information inadvertently may be sent to the wrong person, avoid misuse of distribution lists and make sure that any lists used are current.

If you are unsure whether certain information is confidential, consult your supervisor, your Town attorney, or the Municipal Technical Advisory Service, MTAS, legal consultant. Examples of information that either are or may be considered confidential include but are not limited to:

- certain personal information from a person’s personnel file, including Social Security numbers, medical records about employees and personal, identifying information of undercover detectives, such as home addresses, telephone numbers, identities of family members;
- information relating to an administrative hearing and/or litigation of a civil or criminal nature;
- information that, if released, would give a competitive advantage to one prospective bidder over another for Town contracts;
- private correspondence of elected officials;
- trade secrets or commercial or financial information of outside businesses;
- information related to the regulation of financial institutions or securities;
- information regarding an ongoing criminal investigation; and
- taxpayer information.

E-mail messages that contain confidential information should have a confidentiality declaration printed at the top of the message in a form similar to the following:

***“This message contains confidential information of the Town of Mount Carmel.
Unauthorized use or disclosure is prohibited.”***

Since copies of e-mail may be backed up or sent to other systems, they can easily be retrieved later by information system personnel who should not know the content of the message. Therefore, employees should keep in mind that e-mail may **not** be the best form of communication with respect to certain types of confidential information.

Messages to Legal Counsel. All messages to and from legal counsel seeking or giving legal advice should be marked with the following legend at the top of the page:

“Confidential attorney/client privileged information.”

In addition, to preserve the attorney/client privilege, messages to and from legal counsel should never be sent to distribution lists or forwarded to anyone else. It is best if such messages are not retained on a network e-mail system. If a copy of an attorney/client privileged communication needs to be retained, it should be printed and filed in an appropriate place.

7. Copyright Infringement.

The ability to attach a document to an e-mail message for distribution may increase the risk of copyright infringement as prohibited by federal law. A user can be liable for the unauthorized copying and distribution of copyrighted material through e-mail systems. Accordingly, you should not copy and distribute by e-mail any copyrighted material of a third party, such as software, database files, documentation, articles, graphic files, and downloaded information, unless you confirm in advance from appropriate sources that the Town has the right to copy or distribute such material. Any questions concerning these rights should be directed to appropriate legal counsel.

8. Retention of E-mail.

Deletion of Messages. The Town strongly discourages the local storage of large numbers of e-mail messages. Retention of messages takes up large amounts of storage space on the network server. In addition, because e-mail messages can contain confidential information, it is desirable to limit the number, distribution, and availability of such messages. Of course, if the message contains information that must be preserved as a permanent record, it must be saved and archived.

9. Policy Violations.

Violations of this policy will be reviewed on a case-by-case basis and can result in disciplinary action up to and including termination. All e-mail messages are subject to all state and federal laws that may apply to the use of e-mail. In addition, violations of this policy or misuse of the e-mail system could result in civil or criminal prosecution.

ACKNOWLEDGMENT

I hereby acknowledge that I have received and read a copy of the Town of Mount Carmel's Policy for the Use and Monitoring of E-mail. I understand that all e-mail communications systems are the property of the Town, as is the information received from, transmitted by, or stored in these systems. 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 e-mail messages, the use of Town equipment, or the transmission, receipt, or storage of information in this equipment.

I acknowledge and consent to the Town's monitoring my use of both Intranet and Internet e-mail at any time the Town deems it necessary in accordance with its policy. Monitoring may include reading and printing out all electronic mail entering, stored in, or disseminated by the Town of Mount Carmel's system and equipment. I agree not to use a code, access a file, or retrieve any stored information unless authorized to do so. I understand that this consent is a condition of my employment and/or continued association with the Town. I understand all the provisions specified in this policy. Further, I recognize that a violation of this policy may result in disciplinary action, including possible termination.

Employee

Supervisor/Employer

Date