

**ELECTRONIC RECORDS, THEIR RETENTION
AND AVAILABILITY TO THE PUBLIC**

1.00 PURPOSE: The purpose of this policy is to ensure that users of e-mail, internet, intranet, voice mail, electronic facsimile (FAX), electronic subscription services and other electronic media storage devices (microfilm, microfiche, optical disks, tapes, etc.) are aware of privacy/security, application, and legal issues related to their usage, and to ensure that public requests for information stored in these formats are complied with in the same manner as requests for information in non-electronic forms.

2.0 POLICY/PROCEDURE:

2.01 Use of Electronic Media:

To ensure the appropriate use of any electronic media, all users shall utilize City of Longmont (City) hardware and software for approved purposes only as outlined in Administrative Regulation A-4, Use of City Equipment.

2.02 Electronic Records are Generally Public Records.

Electronic mail and access to the Internet provide a valuable communication tool for employees of the City. This tool must be managed in a manner that maintains public trust and confidence in the City organization. As with all records of the City, the use of the e-mail system and Internet are subject to all the legal requirements and policies of the City and may be subject to the provisions of the Colorado Open Records Act.

It is the policy of the City to make all City records available for public inspection unless disclosure of such records is specifically exempted by state or federal law, court order, or contrary to the public interest. Records, including those of elected officials, those kept only in miniaturized or digital form, whether magnetic or optical disks, tapes, microfilm, microfiche, or electronic mail, are generally subject to public disclosure. Correspondence of an employee in the form of electronic mail may also be a public record under the public records law, and may be subject to public inspection under the Colorado Open Records law and the policies of the City.

2.03 Required and Restricted Public Access

The Colorado Open Records Act, Criminal Justice Records Act, Colorado Children's Code, and other legal rules may either require or prohibit public access to some information system technology (IST) records. If an employee is

unsure of the rules in this regard, the employee should seek advice from the City Attorney's Office.

2.04 Privacy and Security Issues.

Employees are not entitled to an expectation of privacy regarding e-mail or other forms of electronic media. All information and data contained in any computer owned by the City are City property, are available to the City at all times and are subject to access by the City.

Electronic media are not necessarily secure communication forms, and information sent via this media could potentially be read by others. Employees using this media are required to respect the privacy of other users and are prohibited from intentionally seeking information on, obtaining copies of, or modifying files, data or passwords belonging to other users, and will not represent themselves as another user unless expressly authorized to do so. Data and programs residing on computer devices and peripherals must be secured whenever such device is left unattended in order to prevent unauthorized access and theft.

Recognizing that confidential information may be stored on electronic media, employees must follow the City policy and procedure regarding the distribution of such records outlined below in section 2.07.

2.05 Retrieval of Information

Upon receiving a request to inspect or copy records stored on any media format, the City shall assist the public in locating specific records including, but not limited to, the availability of viewing stations for microfilm and microfiche, the provision of portable disk copies for computer files, or direct electronic access, if available, via an on-line web server or other means.

The City will charge for any copies, printouts, or photograph requests. The fee shall not exceed \$.25 per page unless the actual costs exceed that amount [CRS 24-72-205 and 24-72-306]. Where fees are specifically prescribed by law, such specific fees shall apply. The City will charge a fee for the manipulation of data in order to generate a record in a form not used by the City and this fee will not exceed the actual cost of manipulating such data and generating the record [CRS 24-72-205(3) and (4) and 24-72-306(1)]. Persons making a subsequent request for the same record shall be charged the same fee.

2.06 Use of Software

The City will allow only city authorized software to be stored or executed upon its computers. Programs installed with the intention of protecting municipal devices and peripherals, such as anti-virus software, shall not be removed or disabled,

unless authorized. All software license agreements and copyright laws shall be adhered to.

2.07 Confidential Information

System users utilizing e-mail to convey information that is privileged, protected, confidential or otherwise subject to nondisclosure under any law, regulation or rule, shall include the words "CONFIDENTIAL" in the **salutation portion** of the message prior to the text of the message. Communications that may qualify as confidential or privileged information include communications to and from an attorney for the City, personnel information, criminal investigation files, or any other privileged information. **Whether or not an e-mail is confidential can only be determined as a matter of law, based on the particular circumstances. Just because a message is labeled "CONFIDENTIAL" does not mean that it will be exempt from disclosure.** If an employee is not sure if information is confidential or privileged, the employee should consult with the City Attorney's Office before distributing information via e-mail.

2.08 Retention of E-mail

All public records of the City will have records retention schedules applicable to them. These retention schedules shall be approved and administered by the Records Manager in the City Clerk's office and approved by the State Archives in accordance with state law. All employees of the City are required to comply with these retention schedules for the retention, archiving, and disposition of these records.

E-mail files shall not be permanently retained. The City retains e-mail only to the degree that allows current operation of the system. E-mail is not and shall not be considered a permanent document of information storage medium. E-mail messages generally fall into two categories:

- 1) Some e-mail is of limited or transitory value. For example, a message seeking dates for a proposed meeting has little or no value after the meeting date has been set. Retention of such messages in the computer system serves no purpose and takes up space. Such messages may be deleted as soon as they no longer serve an administrative purpose. (Record Series Number 0245, General Specific Records Retention and Disposition Schedule)
- 2) E-mail is sometimes used to transmit records having lasting value. For example, e-mail about interpretations of policies or regulations may be the only record of that subject matter. Such records should not be maintained in e-mail format, but should be transferred to another medium (i.e. printed on paper or transferred to a diskette) and appropriately filed, thus permitting e-

- The e-mail name and address of the sender;
- The e-mail name and address of all recipients (or distribution lists);
- The e-mail name and address of all other recipients (or distribution lists);
- The date and time that the message was sent;
- The subject of the message;
- For messages received, the date and time that the message was received.

E-mail system users shall purge their e-mail, sent mail, recycle bin and other e-mail folders on a regular basis, not to exceed 60 days, in order to avoid e-mail being improperly retained and/or causing operational delays or problems with the system. After notice, the City's Information Services Division may purge any e-mail that is older than 60 days.

E-mail messages that need to be kept longer than 60 days but do not have lasting value causing them to be transferred to paper format may be archived to an employee's workstation. Archiving e-mail to your workstation is not the same thing as moving e-mail messages into individual folders. Instructions for archiving e-mail are attached as Exhibit A.

2.09 City Council E-mail Messages

Any electronic correspondence, except confidential information, sent to or by the City Council shall also be deposited in the City Council's public electronic mailbox by forwarding or copying the e-mail to city.council@ci.longmont.co.us. City Council members receiving e-mail from the public regarding City business should forward a copy of that e-mail to this public information mailbox unless the person sending the correspondence has specifically expressed a desire to have the correspondence remain private. Internal mail system users corresponding with the entire City Council may select "City Council & Mayor" from the City's internal address book and the e-mail correspondence will automatically go into the appropriate public mailbox. The City Council's public e-mailbox will be maintained by the City Clerk in accordance with this policy.

3.0 RESPONSIBILITY:

3.01 Employees: Employees are responsible for understanding this policy and adhering to its requirements including the regular purging of e-mail documents in accordance with this policy. Just as it is each employee's responsibility to ensure the maintenance of their paper records, employees are responsible for the maintenance of their electronic records.

3.02 Supervisors and Managers: In addition to the responsibilities outlined for employees, supervisors and managers must review this policy with all new employees and insure compliance within the supervisor/manager's area of influence.

3.03 IS Department: The IS Division will regularly purge e-mail records after reasonable notification to users.

3.04 Official Records Custodian/Executive Directors: Under the Colorado Open Records Act, the official custodian of a public record is the person responsible for maintenance, care, and keeping a given public record regardless of whether the record is in that person's actual custody and control [C.R.S. §24-72-202(2) and C.R.S. 24-72-302(8)]. The official custodian for each City office's tangible public records is also the official custodian for that office's information system technology (IST) records (including e-mail). It is the responsibility of each official custodian, consistent with applicable open records laws, to accommodate members of the public who request access to IST records. The official custodian will also keep records documenting public access to the records and establish standards and procedures to assure the integrity of each record's master copy. The official custodian will also handle charges for copies of records according to the Colorado Open Records Law, Colorado Criminal Justice Records Law, Longmont Municipal Code §§2.20.140 and 2.20.150, and this Administrative Regulation.

The Executive Director of the Department is the official custodian of records for his/her respective Department. The Director may assign the functional tasks of managing the department's records to other staff members but retains the accountability for adhering to all applicable laws, policies, and regulations.

3.05 Records Manager—City Clerk's Office: The Records Manager is responsible for assisting departments with establishing and interpreting retention schedules and developing and implementing a citywide records management program.

3.06 City Clerk: The City Clerk is responsible for maintaining the City Council's electronic mailbox and supporting the Records Manager in addition to the responsibilities outlined for employees, supervisors, and managers. The City Clerk is also the official Custodian of Record for City records not specifically entrusted to other departments.

4.0 REFERENCE/EXHIBITS:

This regulation repeals and replaces portions of A-97-49.
Exhibit A: Archiving E-mail to Your Workstation Database
Additional references include:

Administrative Regulation A-4, Use of City Property.
Colorado Revised Statutes 24-72, Colorado Open Records Act
Colorado Criminal Justice Records Law
Colorado Children's Code
Longmont Municipal Code 2.20.140 and 2.20.150
City of Longmont General Specific Records Retention and Disposition Schedule

5.00 PROCESS: N/A

NEXT REVIEW DATE: November, 2009

DEPARTMENT RESPONSIBLE FOR REVISIONS: Administration/City Clerk

APPROVAL: _____
City Manager Effective Date

EXHIBIT A

Archiving E-mail to Your Workstation Database

E-mail messages can be moved from your mail database into a special archive database on your workstation. This will help reduce the size of your mail database while saving messages you wish to keep. The amount of space of your mail file on the server is limited. You will want to archive documents on your local drive so that you will not reach the limit of your mail file on the server. Additionally, e-mail will be purged from the system every 60 days. Use the following steps to prevent e-mail you wish to save from being purged.

Setting up your Archive:

1. Select Actions, Archive, Settings. Make sure an archive file is listed in the archive database field. Click on advanced and check next to manually from workstation that Local is selected. Click OK.
2. To get the folder structure that is in your mail view set up in your archive, select one document from your inbox to archive. Click on Actions, Archive, Selected Documents.
3. From then on, do the following to archive documents.

On-going Archive process:

1. Clean up unnecessary mail from your inbox and sent mail.
2. Move the mail documents you wish to archive to your folders.
3. Select the documents you wish to archive from the folder. If you want to archive all documents in the folder, click edit, select all or CTRL A.
4. Select Actions, Archive, Selected Documents. Respond with Yes when "Do you wish to archive selected documents now?" appears. These documents will be moved to the correct folder in your archive.

To access your Archive:

From your mail view, double click on Archive from the list on the left side of your screen.