

TOWN OF HOLBROOK

Policy on the Access and Use of Telecommunications Systems

1. PURPOSE

The purpose of this policy is to set in place the standards for the proper and allowed uses of the Town's telecommunications systems including telephones, electronic mail (e-mail), facsimile machines (faxes), and the Internet.

2. POLICY

The Town of Holbrook provides staff with the ability to send messages and information through fax, electronic mail (e-mail) and the Internet. The latter two forms of communication have become increasingly popular due to their ability to instantaneously reach a wide number of people and are provided by the Town as tools to improve the efficiency and effectiveness of municipal operations.

The use of these capabilities and equipment is subject to the same management oversight as any other employee activity. The telecommunication systems are the property of the Town and should be used for appropriate business purposes.

3. APPLICABILITY

All Town employees, with the exception of those employed by the School, are subject to the provisions of this policy. Members of Town Boards and Committees are strongly advised to comply with Public Records Law and the guidelines established by the Norfolk County District Attorney's Office with respect to the Open Meeting Law as highlighted below.

4. PRIVACY/PUBLIC ACCESS

- 4.1** Massachusetts statute broadly defines the term "public record" to include all documentary materials or data, regardless of its physical form or characteristics, created or received by any official or employee of any governmental unit, unless falling within a strictly defined set of exemptions [M.G.L. c. 4, § 7(26)]. E-mail is therefore considered a public record and as such is subject to the requirements of the Public Records Law (M.G.L. c. 66). Additionally, Federal courts have also held that electronic mail is considered a record for purposes of the Federal Freedom of Information Act.
- 4.2** All e-mail sent and received as principal addressee at a Town-issued address, or any address when in an official capacity, as well as faxes and Internet postings should be considered a public record subject to legal discovery and record retention policies.
- 4.3** Employees and committee members acting in their official capacity should have no expectation of privacy in their use of these telecommunications systems. The Town Administrator, or the designee of the Town Administrator, reserves the right to monitor e-mail messages, Internet postings and faxes and to access all such messages residing on Town of Holbrook equipment or property. All messages sent or received by e-mail or the Internet are stored automatically on

the Town's computer system and deleting such messages does not guarantee that they cannot be retrieved.

- 4.4 Notwithstanding the Town's right to retrieve and read any e-mail messages, faxes or Internet postings generated from or sent to a Town-issued address, employees shall not retrieve or read any messages that are not sent to them unless express permission is given by the intended recipient.
- 4.5 No employee shall send e-mail under another employee's name nor shall any employee change any portion of a previously sent e-mail message without prior authorization.

5. APPROPRIATE USE

- 5.1 E-mail, and related on-line services, are the property of the Town and are to be used for business matters directly related to the operational activities of the Town and as a means to further the Town's objective to provide efficient, complete, accurate, and timely services.
- 5.2 Users shall act in a professional manner, properly identifying themselves, and shall ensure that they do not misrepresent themselves or the Town.
- 5.3 The telecommunications systems shall not be used for personal gain or to conduct personal business, political activity, fundraising activity, or charitable activity. The transmission of materials used for commercial promotion, product endorsement or political lobbying is strictly prohibited.
- 5.4 The telecommunications systems shall not be used to promote discrimination on the basis of race, color, national origin, age, marital status, sex, political affiliation, religion, disability or sexual preference; to promote, result in, or contribute to sexual harassment; or to promote personal, political or religious business or beliefs.
- 5.5 The telecommunications systems shall not be used for any illegal activity, including but not limited to, the transmission of copyrighted or trade secret material, the transmission of obscene, defamatory, or threatening material, or the propagation of any type of criminal activity.
- 5.6 No user shall violate the computer security systems implemented by the Town or other institutions, organizations, companies or individuals.
- 5.7 No user shall pirate software or download and transfer software for which the use does not have the proper licensing.
- 5.8 All users are expected to undertake precautions to prevent infection of Town computers by computer viruses. Executable programs imported from other sites to Town computers may not be used unless they have been authorized by the Town Administrator, or the designee of the Town Administrator, and have been subjected to virus detection procedures approved by the Town Administrator, or the designee of the Town Administrator. Additional restrictions or regulations on the importing of remote files may from time to time be imposed and such restrictions or regulations shall be considered part of this policy.

- 5.9 Users shall not engage in activities that could cause congestion and disruption of networks and systems, including but not limited to consuming excessive system resources, e.g. Napster, mailbombing and flooding.
- 5.10 For security purposes, employees should either log off or revert back to a password screen saver when leaving their computer for an extended period of time. When leaving for the day, employees should log off. All electronic media should be kept away from magnets including those found in telephone receivers and paper clip holders.

6. OPEN MEETING LAW COMPLIANCE

- 6.1 The Norfolk County District Attorney's Office has established guidelines for the use of e-mail by members of governmental bodies. These guidelines emphasize compliance with the Open Meeting Law (M.G.L. c. 39, § § 23A - 23B) by reaffirming that no substantive discussion by a quorum of members of a governmental body about public business within the jurisdiction of the governmental body is permissible except at a meeting held in compliance with the provisions of the Open Meeting Law. Despite the convenience and speed of communication by e-mail, its use by members of a governmental body carries a high risk of violating the Open Meeting Law. As with private conversations held in person or over the telephone, e-mail conversations among a quorum of members of a governmental body that relate to public business violate the Open Meeting Law, as the public is deprived of the opportunity to attend and monitor the e-mail "meeting." Because the very nature of e-mail makes it possible for private, serial conversations to reach a quorum of members without the knowledge of all participants, members of governmental bodies should exercise caution when communicating via e-mail on an individual basis.
- 6.2 Matters of a purely housekeeping or administrative nature, such as scheduling or canceling meetings, announcements, requests to place items on the agenda, or communications by members of a governmental body to department heads or staff may be communicated outside of a meeting, but care should be taken not to use e-mail for the purposes of deliberations.

7. FILING AND RETENTION

- 7.1 As public records, the retention and disposition of e-mail communications are stipulated by retention schedules issued by the Secretary of the Commonwealth. In addition to retaining the actual text of a message and any attachments, transmission data contained in an e-mail communication (full header information including the sender, addressee, date and time of transmission and receipt, and routing instruction) shall also be retained as part of the record, whether the record is printed out or stored electronically.
- 7.2 E-mail may be retained in hard copy, electronically, or by a combination of these two means; however, after two years, the record should be printed with full header information and attachments and retained in paper form. When appropriate, e-mail messages may be filed with program records and will assume the same retention as the records with which they are filed. Attached or enclosed records must be filed according to their function and content, and shall assume the retention schedule of the records with which they are filed. When e-mail records do not relate obviously or directly to a program, they may be filed as correspondence. If a particular record is not described on an existing records retention schedule, the appropriate department head, through the Town Administrator, shall apply to the Supervisor of Public

records for authority to dispose of that record, and to add records to existing schedules. Only when e-mail messages are clearly conversational and do not add in any way to the operational records of the department, may they be discarded without adhering to retention schedules.

8. AGREEMENT

All employees shall agree to abide by the Policy on Access and Use of Telecommunications Systems, and shall sign a statement so stating prior to the granting of access. A signed copy shall be maintained in the employee's personnel file. Any employee who violates this policy or uses the Town's telecommunications systems for improper purposes shall be subject to discipline, up to and including discharge.