

RESOLUTION NUMBER 07-094

A RESOLUTION OF THE KETCHUM CITY COUNCIL ADOPTING AN E-MAIL POLICY FOR THE CITY'S ELECTED OFFICIALS, APPOINTED OFFICIALS, EMPLOYEES, INDEPENDENT CONTRACTORS AND VOLUNTEERS.

WHEREAS, the Ketchum City Council has previously adopted "Best Practices" as a goal for city operations and administration; and

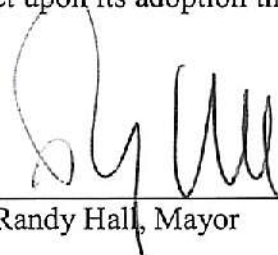
WHEREAS, the City of Ketchum currently does not have an e-mail policy, establishing rules and guidelines for the appropriate use of e-mail; and

WHEREAS, the Ketchum Mayor and City Council recently requested that an e-mail policy be drafted for all the City's elected officials, appointed officials, employees, independent contractors and volunteers; and

WHEREAS, such policy is attached hereto as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED by Ketchum City Council that the City of Ketchum adopts an e-mail policy for the City's elected officials, appointed officials, employees, independent contractors and volunteers.

This Resolution will be in full force and effect upon its adoption this second (2nd) day of July 2007.



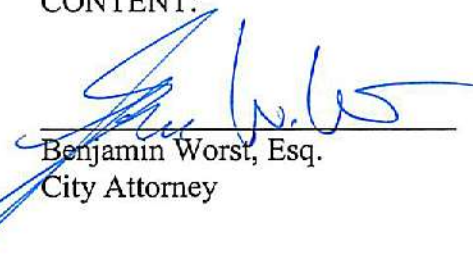
Randy Hall, Mayor

ATTEST:

APPROVED AS TO FORM AND CONTENT:



Sandra Cady, CMC
City Treasurer/Clerk



Benjamin Worst, Esq.
City Attorney



EXHIBIT A

E-MAIL POLICY OF THE CITY OF KETCHUM

1.0 Purpose. The purpose of this policy is to establish rules and guidelines for the appropriate use of electronic mail (e-mail) by the City's elected officials, appointed officials, employees, independent contractors and volunteers. Additionally, this policy will ensure compliance with Idaho's public records laws and open meeting laws.

2.0 Idaho Law. Under Idaho law, a "public record" includes, but is not limited to, "any writing containing information relating to the conduct or administration of the public's business prepared, owned, used or retained by any state agency, independent public body corporate and politic or local agency regardless of physical form or characteristics." Idaho Code Section 9-337 (13). Idaho Code further requires the City to retain such public records for certain periods of time. With a few limited exceptions, "every person has a right to examine and take a copy of any public record of this state and there is a presumption that all public records in Idaho are open at all reasonable times for inspection except as otherwise expressly provided by statute." Idaho Code Section 9-338(a).

Faithful adherence to this e-mail policy should minimize the expenditure of limited City resources in retrieving such records and making them available to the public for inspection and review. This e-mail policy will maintain critical public trust in the City by ensuring that the formation of public policy is public business, not conducted in secret, as stated in Idaho Code Section 67-2340. Last, this e-mail policy will ensure that all City meetings are open to the public and that all persons are permitted to attend any meeting, as required by Idaho Code Section 67-2342(1).

3.0 Applicability. This e-mail policy applies to all City of Ketchum elected officials, appointed officials, employees, independent contractors and volunteers.

4.0 The Policy.

4.1 In General. In general, most e-mail will meet the definition of a public record and will be available to the public for inspection and copying or will be discoverable in litigation. Once an e-mail message is sent, the sender loses control over the information including to whom it may be forwarded. Accordingly, neither send nor forward any e-mail that that you would not be comfortable seeing published on the front page of the newspaper. "E-mail" shall include all information sent or received over the internet including, without limitation, text, links, attachments, files, documents and instant messaging.

4.2 All City business shall be conducted exclusively on the City server. When e-mail is sent through personal e-mail accounts and non-City servers such as Gmail, Yahoo, Cox, Hotmail, MSN, etc., the City might not own such information, has difficulty controlling the distribution and confidentiality of such information, does create a legal record and is unable to

search such and retrieve such information. To resolve these problems, unless necessary, all City business shall be conducted exclusively on the City server. In the event that it is necessary to send e-mail from a personal account or non-City server, the sender shall copy the sender's City e-mail address. When City-related e-mail is received on a personal e-mail account or non-City server, the recipient shall forward such e-mail to the recipient's City e-mail account and request that the sender send all future City-related e-mail to the recipient's City e-mail account.

4.3 No non-City business shall be conducted on the City server. E-mail is intended for City-business related purposes only. E-mail shall not be used for communication that is unrelated to official City business including, without limitation, personal messages and non-City business related communications.

4.4 All e-mail on the City server is City property. All e-mail sent or received through the City server is the property of the City. The City reserves the right to retrieve and make proper and lawful use of any and all e-mail sent or received through the City server.

4.5 There is no right to privacy when using the City server. No user of the City server may expect any privacy rights to extend to any e-mail sent or received through the City server. The City server automatically backs up all e-mail sent or received through it making searchable copies subject to periodic monitoring, review and retrieval. The City has the authority to access communications in the City server at any time for any lawful City business-related reason. E-mail may be subpoenaed or requested under the Public Records Act and/or may be used as evidence in court or as part of an investigation. Accordingly, you should expect that e-mail is subject to periodic review by City management and disclosure to the public. E-mail may be disclosed within or outside of the City without the permission or knowledge of the sender or recipient. Deleting a message from the user's computer system does not necessarily delete it from the system. The City has unlimited access to protect system security or the City's property rights. No one shall use the electronic mail and computer systems for purposes of satisfying idle curiosity about the affairs of others, or for obtaining access to the files or communication of others with no substantial business purpose or legal authority. Only the City Administrator, or his designee, can authorize monitoring or retrieval of e-mail.

4.6 Confidential e-mails. If possible, confidential communications should be made in person, over the phone or in a physical writing, sealed in an envelope and clearly labeled "Confidential". If a potentially confidential e-mail must be sent, the sender shall write the word "Confidential" in the subject matter line and not copy anyone outside of the City (i.e. you may only copy elected officials, city officials, employees, and independent contractors). Messages identified as "Attorney Client Privileged", "Attorney Work Product" or "Confidential" shall not be forwarded to others unless discussed with the author of the e-mail communication.

4.7 All employee use of the City server shall remain subject to both this e-mail policy and the Employee Handbook. Portions of the City of Ketchum Employee Handbook dated November 7, 2005, govern the appropriate use of e-mail and the internet. Employees shall abide by the rules and guidelines set forth in both this e-mail policy and the Handbook, as it presently exists and as it may be amended from time to time. In the event of a conflict between this e-mail policy and the Handbook, employees shall abide by the more restrictive requirement.

4.8 Inappropriate e-mail. E-mail that disrupts or threatens to disrupt the efficient operation of City business or administration are prohibited. E-mail prohibited in this section include, but are not limited to:

- E-mail that contains threatening, abusive or profane language.
- E-mail that harms the integrity of the system or network.
- E-mail that discloses any unauthorized confidential City information.
- E-mail sent anonymously or under a fictitious name.
- E-mail that violates the law, violates individual rights, creates potential liability for the City or that violates public policy of the State of Idaho.
- E-mail that is pornographic or obscene.
- E-mail that constitutes harassment or discrimination on the basis of race, color, religion, sex, national origin, ancestry, age, physical disability, mental disability, medical condition, veteran status, marital status, sexual orientation, or any other status protected by local, state, or federal law.
- E-mail by City employees that conflicts with the Ketchum Employee Handbook dated November 7, 2005, as it presently exists and as it may be amended from time to time.
- E-mail that is intended to harass or annoy.
- E-mail that solicits or proselytizes others for non city-business related commercial ventures, religious or political causes, outside organizations or other non city-business related activities.

ACKNOWLEDGEMENT OF E-MAIL POLICY

I, _____, hereby acknowledge that I have read the City of Ketchum E-mail Policy set forth above. I understand the terms and conditions of such policy and agree to comply with all such terms and conditions. I further acknowledge that my failure to fully comply with such terms and conditions may result in disciplinary action against me up to and including termination if I am an employee of the City or legal action for breach of contract and damages for all other users.

DATED: _____