

ORDINANCE 2024-24

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, ARTICLE III, BOARDS AND COMMISSIONS, DIVISION 1, ELECTRONIC INFORMATION SYSTEMS; AMENDING TERMINOLOGY TO BE CONSISTENT WITH RECENTLY ADOPTED INFORMATION TECHNOLOGY AND CYBERSECURITY POLICIES, EXPANDING APPLICABILITY, ADDING ADDITIONAL PROHIBITED USES, ADDRESSING SECURITY AND LICENSING ISSUES, AMENDING THE PUBLIC RECORDS REQUIREMENTS, ESTABLISHING A NEW SECTION 2-58 ADDING USE REQUIREMENTS, PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION, PROVIDING FOR SCRIVENER'S ERRORS AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council is dedicated to having a secure network; and

WHEREAS, City Council has determined that it is in the best interest of the public health, safety and welfare that this ordinance be adopted; and

WHEREAS, for purposes of this ordinance words with underlined (underlined) type shall constitute additions to the original text and words with strikethrough (~~strikethrough~~) type shall constitute deletions from the original text.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

SECTION 1. The City Council of the City of Port Orange, Florida, hereby amends ARTICLE III. - BOARDS AND COMMISSIONS, DIVISION 1.- ELECTRONIC INFORMATION SYSTEM, Sections 2-51 through 2-65 of the City of Port Orange Code of Ordinances, to read as follows:

DIVISION 1. ~~ELECTRONIC INFORMATION TECHNOLOGY USE SYSTEM~~

Sec. 2-51. Purpose.

The purpose of this division shall be to establish standards for the use and accessibility of the ~~electronic information technologysystems~~ provided by the city to agency, board, commissioners, and other members or volunteers appointed by the city council or management (collectively referred to herein as "members"). ~~Electronic Information Systems ("EIS")~~ Information Technology ("IT") shall mean any equipment or interconnected system or subsystem of equipment, used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the City. IT includes, without limitation, all computers, laptops, phones, cellular devices, software, internet access, and other electronic devices and systems provided by the City. ~~shall include all computers, phones, software, internet access, and other electronic devices and systems provided by the city. In order to ensure that the city and its members benefit from the use of these systems, the following standards are hereby established. This division is also intended to provide standards and direction for the preservation of emails and text messages under the public records law.~~

Sec. 2-52. In general.

- (a) The use of ITEIS for city business has become critical to the daily operations of the city and its members, as well as the general public who wish to obtain information about local government issues, projects, and services. Governmental organizations are increasingly using ITEIS to increase efficiency and productivity, improve the quality of services, and provide open access to public records. It is the general policy of the city that ITEIS be used in a responsible, efficient, ethical, and legal manner to support the programs of the city. The city reserves the right to monitor and log all activity on any of its ITEIS including email, text messaging and internet use, with and without notice. Members and other users shall have no expectation of privacy or confidentiality when using city ITEIS.
- (b) ~~Although the city maintains firewalls and other security measures to block~~ Users of IT may be exposed to content that is offensive, indecent or objectionable, content, ~~members and other users of EIS may be unavoidably exposed to such content.~~ Members and other users shall access ITEIS including email, text, and internet services at their own risk. Members and other users shall individually block offensive, indecent or objectionable content and report such content for a system wide remedy. This division includes standards for authorized and restricted uses of city ITEIS and specifies remedial actions in the event a member is found in violation of this division.

Sec. 2-53. Scope of applicability.

~~This division applies to all members who conduct city business from any location during working and non-working hours. This division applies to all information systems and information system components as well as members when using the City's IT.~~

Sec. 2-54. Prohibited activities.

- (a) The city council hereby prohibits members from using ITEIS for the purposes of engaging in the following activities:
- (1) Use that interferes with member responsibilities to the City;
 - (2) Viewing electronic materials that contain obscene, pornographic, or otherwise offensive content;
 - (3-2) Dissemination of sexually explicit, hate orientated, discriminatory, threatening or illegal images or information, including offensive jokes or cartoons;
 - (4-3) Accessing any web site that promotes discrimination based on race, religion, gender, age, marital status, national origin, or disability;
 - (5 4) Accessing gambling sites;
 - (6 5) Promoting or endorsing any outside business venture;
 - (7) Chat or messenger services not related to official City business;
 - (8) Playing video type games or using streaming services that interrupt City business;
 - (9) Engaging in unauthorized fund-raising efforts (any fund-raising effort utilizing the City's IT must be approved by City Council);
 - (10) Engaging in political activities in violation of the law including, without limitation, the Little Hatch Act (Section 104.31, Florida Statutes) and other election and ethics laws
 - (11-6) Downloading games, audio or video files that are illegal, pirated, or incompatible software;
 - (12-7) Distributing, sending, or forwarding chain letters that contain discriminatory or offensive content;
 - (13-8) Distributing, sending, or forwarding copies of any document, file, or application in violation of copyright laws;
 - (14) Accessing the electronic information of others without a bona fide business purpose;
 - (15-9) Transmitting confidential information without authorization or using an unsecured means of transmission;
 - (16-10) Engaging in conduct that is threatening, libelous, intemperate, abusive or insulting towards the city or its various members, users, boards, corporate organizations, employees, and citizens; and
 - (17-14) Any violation of local, state or federal law.
- (b) The above list of prohibitions is not an all-inclusive list of prohibited ITEIS usage. The city council prohibits a member's use of the ITEIS when a member engages in

any action or failure to act which the member should have reasonably understood to be inappropriate and/or wrong, based on the requirements of the city's ordinances, rules, policies and procedures, or the laws of the federal, state and local jurisdictions.

Sec. 2-55. Non-city business uses.

- (a) Any usage of city ITEIS for non-city business purposes must conform to the following requirements:
- (1) Use shall not include any of the prohibited activities listed in section 2-54 including those that would reflect unfavorably on the City and its various organizations, employees, members and citizens.
 - (2) Use shall not otherwise impact the system bandwidth as determined by the IT ~~division manager~~Director that negatively impacts the ITEIS and other city technological systems and the normal flow of city operations.
 - (3) Use is scheduled so as not the infringe upon City business.

Sec. 2-56 Security and licensing issues.

The IT ~~division~~Department of the city shall advise all members of the security threats posed by use of ITEIS. Security threats may be introduced to the city computing environment by sending or receiving information through the internet. The threat can be in the form of viruses (attached to documents or downloaded software) that are designed to corrupt databases and/or to directly attack the system by hackers with the intention of accessing sensitive information or disrupting the operations of the city. ~~A secure firewall~~ Software and hardware will be administered by the IT ~~division~~Department to protect against the threat of outside intruders who attempt to gain unauthorized access to city systems and data.

All electronic or digital software, data files, and applications residing on the City's IT infrastructure are either owned by or licensed solely for the City's use. Unauthorized reproduction of such software, data files, or applications is prohibited.

Software and applications that are not owned or licensed by the City may contain computer "viruses", "malware" or "ransomware" which are capable of inflicting enormous damage upon the City's IT infrastructure. In addition, the City may face liability under copyright laws if users make or use unauthorized copies of copyright protected programs. As a result, users shall not install or use non-City owned or licensed software or applications on the City's IT infrastructure, except as specifically authorized by the City's IT Department in writing on a case-by-case basis. The IT Department shall be responsible for installing and configuring any and all software and applications which must be authorized. Exceptions may be required and permitted through written requests to the IT Director. No other software or applications may be installed, without written approval by the IT Director.

Each City-issued mobile device shall have Mobile Device Management (MDM) software installed by the IT Department which shall allow the IT Department to restrict unauthorized use and unauthorized applications.

Sec. 2-57. Public records management.

- (a) Each user of city ~~ITEIS~~ shall take responsibility for proper retention of and shall retain emails and text messages sent or received ~~in the furtherance of connection with~~ city business. All members have been provided a city email account and shall use the city email account when communicating about city business in order to ensure the proper retention of all public records in accordance with law. All City cell phones shall have text message archiving enabled prior to use of text messaging by a Member. The use of text messaging should be limited to messages that are transitory in nature and created primarily to communicate information of short-term value. Transitory messages are not intended to formalize or perpetuate knowledge and do not set policy, establish guidelines or procedures, certify a transaction, or become a receipt. All emails sent or received using a city provided email account are subject to public disclosure as required by law. In the event that unavoidable circumstances require an email or text message related to official city business be sent to or received from a personal email account or personal cell phone, the same shall be properly maintained and retained by the person subject to this policy who sent or received the communication. If the member wishes not to be responsible for the retention and potential production of said public record, the member may forward the communication to the board member's city-issued email account or to cityclerk@port-orange.org within seventy-two (72) hours of being sent or received to ensure for proper maintenance, retention, and production in accordance with law. Emails and text messages being preserved in this manner shall identify the sender, recipient(s), and contents of the message along with the date and time of transmission.
- (b) Members should avoid using City IT for personal communications and are encouraged to use **personal** email accounts or **personal** cell phones when communicating private, non-business-related information which the member does not wish to be made public. The City Clerk's Office will endeavor to omit personal (non-public) records when processing public records requests involving emails and text messages. HOWEVER, THE CITY SHALL NOT BE RESPONSIBLE FOR THE RELEASE OF ANY PRIVATE/PERSONAL COMMUNICATION THAT WAS SENT OR RECEIVED INCLUDING, WITHOUT LIMITATION, EMAILS AND TEXT MESSAGES. ~~Members are encouraged to use personal email accounts for personal communications. Personal emails are considered those emails sent or received from a private network which are completely personal to the individual in nature and have no relationship to city operations or official city business, and are not made in connection with the official business of any public body, officer, employee, or board member of the city or persons acting on the city's behalf. The city shall not be held liable for the public release of any email that the member has received or sent from a city provided email account.~~

- (c) All emails and text messages made or received in connection with the transaction of official City business, EVEN FROM PERSONAL EMAIL ACCOUNTS AND PERSONAL CELL PHONES, shall be subject to public disclosure. Even emails and text messages from personal email accounts and personal cell phones made or received in connection with the transaction of official city business shall be subject to public disclosure as required by law. It shall be the responsibility of each person subject to this division to retain any public record stored on a personal email account or personal cell phone in accordance with this division.
- (d) Upon the end of the member's service, a member's IT account will be inactivated. All public records that are not already stored within City IT infrastructure shall be provided to the records custodian to be maintained in accordance with applicable law. Each person subject to this policy shall coordinate with the records custodian on the proper handling and disposition of public records in their possession prior to any destruction or disposal of public records. Once no longer serving on a city board, a volunteer's EIS account will be inactivated as part of the off-boarding process. All public records that are not already stored within city EIS shall be provided to the records custodian to be maintained in accordance with applicable law. Each person subject to this policy shall coordinate with the records custodian on the proper handling and disposition of public records in their possession prior to any destruction or disposal of public records.

Sec. 2-58. Additional Use Requirements

1. Members must promptly report the theft, loss, or unauthorized disclosure of City IT.
2. Members shall not share passwords for City IT.
3. Members must use extreme caution when opening e-mail attachments or clicking links.
4. Members must complete training courses as required by the IT Director or designee.

THE CITY OF PORT ORANGE RESERVES THE RIGHT TO EXAMINE ALL DATA STORED, VIEWED, OR TRANSMITTED ON ANY CITY IT TO ENSURE THAT ALL USERS ARE IN COMPLIANCE WITH THIS POLICY. USERS OF CITY IT SHALL HAVE NO PRIVACY RIGHTS IN ANY INFORMATION SENT, RECEIVED OR STORED WITH THE USE OF CITY IT INFRASTRUCTURE.

Sec. 2-598 Penalties.

The city council shall have the sole discretion and authority to enforce this division for any member violating any provision of this division by revoking the member's ~~ITEIS~~ access or by asking the member to resign or removing the member from an appointment to an agency, board or commission.

Secs. 2-6059—2-65. Reserved.

SECTION 2. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION 3. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

SECTION 4. The provisions of this ordinance shall become and be made a part of the Code of Ordinances of the City of Port Orange and the sections of this ordinance may be renumbered or re-lettered to accomplish such intention. The code codifier is granted liberal authority to codify the provisions of the ordinance.

SECTION 5: Typographical errors and other matters of a similar nature that do not affect the intent of this Ordinance, as determined by the City Clerk and City Attorney, may be corrected.

SECTION 6. This Ordinance shall become effective immediately upon final passage by the City Council.

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MAYOR DONALD O. BURNETTE

ATTEST:

Robin L. Fenwick, MMC, City Clerk

Passed on first reading on the ___ day of _____, 2024.

Passed and adopted on second and final reading on the ___ day of _____,
2024.

Reviewed and Approved: _____
Matthew J. Jones, City Attorney

[CA-8246]