

CITY OF MONTEREY

Public Wi-Fi Terms of Service

By using the City of Monterey's Public Wi-Fi Internet Service ("Monterey Public Wi-Fi" or the "Service"), you agree to be bound by the following terms and conditions ("Monterey Terms of Service"), which are a binding agreement between you and the City of Monterey ("City"). You represent that you are of legal age to agree and be bound by this agreement. **IF YOU DO NOT AGREE TO BE BOUND BY THESE TERMS, YOU SHOULD IMMEDIATELY STOP THE USE OF THE MONTEREY PUBLIC WI-FI.** Continued use of the City's Wi-Fi will be deemed to be agreement to the Terms of Service. Public Wi-Fi is provided as an additional service for residents and visitors to City facilities and is provided on a best effort basis with support provided only during regular business hours.

Personal Use Only

You may use the Wi-Fi network provided by the City of Monterey for the sole purpose of Internet access as described here. Your access to the service is conditioned upon legal and appropriate use of the service. You must immediately notify the City of any unauthorized use of the Monterey Public Wi-Fi or any other security breach. We will give you an IP address each time you access the Monterey Public Wi-Fi and it may change. Specific Internet ports and protocols are disabled on the wireless network in order to limit bandwidth, prevent abuse, and/or protect City network resources. Time limits and bandwidth limits on wireless access are enforced to ensure that all have the opportunity to use Internet resources.

Your use of the Monterey Public Wi-Fi and any activities conducted online through the Service shall not violate any applicable law or regulation or the rights of the City of Monterey or any third party. The use of the Monterey Public Wi-Fi for the following activities is prohibited:

- The sale, transfer, or rental of the Monterey Public Wi-Fi to customers, clients, or other third parties, either directly or as part of a service or product created for resale;
- Modifying, adapting, translating, or reverse engineering any portion of the Monterey Public Wi-Fi;
- Attempting to break security, access, tamper with or use any unauthorized areas of the Monterey Public Wi-Fi;
- Attempting to collect or maintain any information about other users of the Monterey Public Wi-Fi (including usernames and/or email addresses) or other third parties for any purposes;
- Creating or transmitting unwanted electronic communications such as "spam," or bulk commercial messages to other users or otherwise interfering with other user's enjoyment of the service;
- Engaging in any activity that infringes or misappropriates the intellectual property, publicity, privacy or other proprietary rights of others, including patents, copyrights, trademarks, service marks, trade secrets, or any other proprietary right of any third party, or that is defamatory, objectionable, unlawful or promotes or encourages illegal activity;
- The transfer of technology, software, or other materials in violation of applicable export laws and regulations including, but not limited to the U.S. Export Administration Regulations and Executive Orders;
- Distribution of any Internet viruses, worms, pinging, flooding, mail bombing, denial of service attacks, defects, Trojan horses, or other items of a destructive nature;
- Accessing illegally or without authorization computers, accounts, equipment or networks belonging to another party, or attempting to penetrate security measures of another system. This includes any activity that may be used as a precursor to an attempted system penetration, including but not limited to port scans, stealth scans or other information gathering activity; or
- Using Monterey Public Wi-Fi for any unlawful, harassing, abusive, criminal or fraudulent purpose.

Changes in City of Monterey Terms of Service and Monterey Public Wi-Fi; Termination

The City may modify or terminate the Service and/or these Terms of Service and any accompanying policies, for any reason, and without notice.

Upon any such termination, any and all rights granted by City of Monterey to you shall terminate.

Administrative Monitoring and Privacy Policy

The City has the right to monitor the Monterey Public Wi-Fi at all times. By using this service you expressly consent to such monitoring. If you do not wish to consent to such monitoring, exit this system now. Additionally, the City may provide user information, use records, and/or other related information under certain circumstances (for example, in response to lawful process, orders, subpoenas, or warrants, or to protect the City's rights, users, or property).

You understand and agree that City of Monterey may access, preserve, and disclose your personal information if required to do so by law or in a good faith belief that such access preservation or disclosure is reasonably necessary to comply with legal process or protect the rights and property of City of Monterey or the public.

Disclaimers

You acknowledge (i) that the Service may not be uninterrupted or error-free; (ii) that viruses or other harmful applications may be available through the Service; (iii) that the City of Monterey does not guarantee the security of the Service and that unauthorized third parties may access your computer or files or otherwise monitor your connection; (iv) that the City of Monterey's ability to provide the Service without charge is based on the limited warranty, disclaimer and limitation of liability specified in this Agreement and it would require a substantial charge if any of these provisions were unenforceable.

THE SERVICE AND ANY PRODUCTS OR SERVICES PROVIDED ON OR IN CONNECTION WITH THE SERVICE ARE PROVIDED ON AN "AS IS", "AS AVAILABLE" BASIS WITHOUT ANY WARRANTIES OF ANY KIND. THE CITY OF MONTEREY DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL OTHER EXPRESS AND IMPLIED WARRANTIES OR CONDITIONS, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT AND TITLE, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. CITY OF MONTEREY DOES NOT WARRANT THAT THE SERVICES WILL PERFORM AT A PARTICULAR SPEED, OR WILL BE UNINTERRUPTED, ERROR-FREE, OR SECURE.

Limitation of Liability

UNDER NO CIRCUMSTANCES SHALL THE CITY OF MONTEREY BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT, OR SPECIAL DAMAGES OF ANY NATURE, OR FOR ANY LOST REVENUES, LOST PROFITS, OR LOSS OF BUSINESS RELATING TO PROVIDING THE SERVICE OR THESE TERMS OF SERVICE REGARDLESS OF THE CAUSE OF ACTION, AND WHETHER OR NOT FORESEEABLE. The limitations, exclusions and disclaimers set forth in this section will not apply only if and to the extent that the law or a court of competent jurisdiction requires liability under applicable law beyond and despite these limitations, exclusions and disclaimers.

Indemnity

You agree to hold harmless and indemnify the City of Monterey and its hosts, licensors, officers, directors, employees, agents, and affiliates from and against any claim, liability, loss, damage, cost, or expense (including without limitation reasonable attorney's fees) arising from or in any way related to your use of Monterey Public Wi-Fi, any materials downloaded or uploaded through Monterey's Public Wi-Fi, any actions taken by you in connection with your use of the Monterey Public Wi-Fi, any violation of any third party's rights or a violation of law or regulation, or any breach of this agreement. This Section will not be construed to limit or exclude any other claims or remedies that the City of Monterey may assert under this

Agreement or by law.

Intellectual Property Policy

It is the City's policy to respond to notices of alleged infringement that comply with the Digital Millennium Copyright Act. If you believe that your copyright has been infringed on or through Monterey Public Wi-Fi, you may send the City of Monterey's designated agent a notice requesting that the item, information, or material be removed or access to it blocked. To contact the City's designated agent, please send a written communication by regular mail to: City of Monterey/ City Attorney/ 580 Pacific Street, Monterey, CA. 93940. Provide information reasonably sufficient to permit the City of Monterey to contact you (email address is preferred).

Miscellaneous Provisions

These City of Monterey Terms of Service will be governed by and construed in accordance with the laws of the State of California. If for any reason a court of competent jurisdiction finds any provision or portion of the City of Monterey Terms of Service to be unenforceable, the remainder of the City of Monterey Terms of Service will continue in full force and effect. These City of Monterey Terms of Service constitute the entire agreement between the parties and supersedes and replaces all prior understandings or agreements, written or oral, regarding Monterey Public Wi-Fi. Any waiver of any provision of the City of Monterey Terms of Service will be effective only if in writing and signed by the City of Monterey.