

BJ's Restaurants, Inc. Acceptable Use Policy For Wi-Fi Service

Introduction

BJ's "Wi-Fi Service" is a free wireless internet service provided to BJ's guests while they are dining at BJ's.

BJ's is at all times committed to complying with the laws and regulations governing use of the internet, e-mail transmission and text messaging and preserving for all of its guests the ability to use BJ's network and the internet without interference or harassment from other users. BJ's Acceptable Use Policy ("AUP") is designed to help achieve these goals.

By using the Wi-Fi Service, as defined below, you acknowledge and agree to comply with this AUP and to remain responsible for its usage of BJ's Wi-Fi Service. Your access to the Wi-Fi Service is conditioned on legal and appropriate use of the Wi-Fi Service and your compliance with the terms and conditions of the AUP. Failure to comply with the AUP is grounds for termination of your access to the Wi-Fi Service.

BJ's reserves the right to change or modify the terms of the AUP at any time, effective when posted on BJ's website at www.bjsrestaurants.com/wifi. Your use of the Wi-Fi Service after changes to the AUP are posted shall constitute acceptance of any changed or additional terms.

BJ's is a family friendly restaurant and must respect the rights of all its guests. Accordingly, some internet websites may not be available through the Wi-Fi Service due to filtering software. The filtering software is not perfect and may block some sites which are not inappropriate for guests of all ages. We apologize in advance for any inconvenience if a website is blocked.

Scope of the AUP

The AUP applies to BJ's provision of access to the internet through wireless data networks (collectively "Wi-Fi Services").

Prohibited Activities

General Prohibitions: BJ's prohibits use of the Wi-Fi Services in any way that is unlawful, harmful to or interferes with use of BJ's network or systems, or the network of any other provider, interferes with the use or enjoyment of services received by others, infringes intellectual property rights, results in the publication of threatening or offensive material, or constitutes Spam/E-mail/Usenet abuse, a security risk or a violation of privacy.

Failure to adhere to the rules, guidelines or agreements applicable to search engines, subscription Web services, chat areas, bulletin boards, Web pages, USENET, applications, or other services that are accessed via a link from the BJ's-branded website or from a website that contains BJ's-branded content is a violation of this AUP.

Unlawful Activities: You acknowledge and agree that you will not use the Wi-Fi Services in connection with any criminal, civil or administrative violation of any applicable local, state, provincial, federal, national or international law, treaty, court order, ordinance, regulation or administrative rule. BJ's will report any discovered violation of this prohibition to the appropriate law enforcement agency.

Violation of Intellectual Property Rights: You acknowledge and agree that you will not use the Wi-Fi Services to publish, submit, receive, upload, download, post, use, copy or otherwise reproduce, transmit, re-transmit, distribute or store any content/material or to engage in any activity that infringes, misappropriates or otherwise violates the intellectual property rights or privacy or publicity rights of BJ's or any individual, group or entity, including but not limited to any rights protected by any copyright, patent, trademark laws, trade secret, trade dress, right of privacy, right of publicity, moral rights or other intellectual property right now known or later recognized by statute, judicial decision or regulation.

Threatening Material or Content: You acknowledge and agree that you will not use the Wi-Fi Services to host, post, transmit, or re-transmit any content or material (or to create a domain name or operate from a domain name) that harasses or threatens the health or safety of others. In addition, BJ's reserves the right to decline to provide the Wi-Fi Services if any content is determined by BJ's to be obscene, indecent, hateful, malicious, racist, defamatory, fraudulent, libelous, treasonous, excessively violent or promoting the use of violence or otherwise harmful to others.

Child Pornography: Wi-Fi Services shall not be used to publish, submit/receive, upload/download, post, use, copy or otherwise produce, transmit, distribute or store child pornography. Suspected violations of this prohibition may be reported to BJ's at the following e-mail address: reportabuse@bjsrestaurants.com. BJ's will report any discovered violation of this prohibition to the National Center for Missing and Exploited Children and/or law enforcement agencies and take steps to remove child pornography (or otherwise block access to the content determined to contain child pornography) from its servers.

Spam/E-mail/Usenet Abuse: You acknowledge and agree that you will not use the Wi-Fi Services in violation of the CAN-SPAM Act of 2003, or any other applicable law regulating e-mail services.

Spam/E-mail or Usenet abuse is prohibited using Wi-Fi Services. Examples of Spam/E-mail or Usenet abuse include but are not limited to the following activities:

- sending multiple unsolicited electronic mail messages or "mail-bombing"- to one or more recipient;
- sending unsolicited commercial e-mail or unsolicited electronic messages directed primarily at the advertising or promotion of products or services;
- sending unsolicited electronic messages with petitions for signatures or requests for charitable donations, or sending any chain mail related materials;
- sending bulk electronic messages without identifying, within the message, a reasonable means of opting out from receiving additional messages from the sender;
- sending electronic messages, files or other transmissions that exceed contracted for capacity or that create the potential for disruption of the BJ's network or of any networks with which BJ's interconnects, by virtue of quantity, size or otherwise;
- using another site's mail server to relay mail without the express permission of that site;
- using another computer, without authorization, to send multiple e-mail messages or to re-transmit e-mail messages for the purpose of misleading recipients as to the origin or to conduct any of the activities prohibited by this AUP;
- using IP addresses that the Guest does not have a right to use;
- collecting the responses from unsolicited electronic messages;
- maintaining a site that is advertised via unsolicited electronic messages, regardless of the origin of the unsolicited electronic messages;
- sending messages that are harassing, malicious, or otherwise could reasonably be predicted to interfere with another party's quiet enjoyment of the Wi-Fi Services or the internet (e.g., through language, frequency, size or otherwise);
- using distribution lists containing addresses that include those who have opted out;
- sending electronic messages that do not accurately identify the sender, the sender's return address, the e-mail address of origin, or other information contained in the subject line or header;
- falsifying packet header, sender, or user information whether in whole or in part to mask the identity of the sender, originator or point of origin;
- using redirect links in unsolicited commercial e-mail to advertise a website or service;
- posting a message to more than ten (10) online forums or newsgroups that could reasonably be expected to generate complaints;
- intercepting, redirecting or otherwise interfering or attempting to interfere with e-mail intended for third parties;
- knowingly deleting any author attributions, legal notices or proprietary designations or labels in a file that the user mails or sends;
- using, distributing, advertising, transmitting, or otherwise making available any software program, product, or service that is designed to violate this AUP or the AUP of any other internet Service Provider, including, but not limited to, the facilitation of the means to spam.

Security Violations

Guests are responsible for ensuring and maintaining security of their systems and the machines that connect to and use Wi-Fi Services, including implementation of necessary patches and operating system updates.

You acknowledge and agree that you will not use the Wi-Fi Services to interfere with, gain unauthorized access to, or otherwise violate the security of BJ's (or another party's) server, network, network access, personal computer or control devices, software or data, or other system, or to attempt to do any of the foregoing. Examples of system or network security violations include but are not limited to:

- unauthorized monitoring, scanning or probing of networks or systems or any other action aimed at the unauthorized interception of data or harvesting of e-mail addresses;
- hacking, attacking, gaining access to, breaching, circumventing or testing the vulnerability of the user authentication or security of any host, network, server, personal computer, network access and control devices, software or data without express authorization of the owner of the system or network;
- impersonating others or secretly or deceptively obtaining personal information of third parties (phishing, etc.);
- using any program, file, script, command or transmission of any message or content of any kind, designed to interfere with a terminal session, the access to or use of the internet or any other means of communication;
- distributing or using tools designed to compromise security (including but not limited to SNMP tools), including cracking tools, password guessing programs, packet sniffers or network probing tools (except in the case of authorized legitimate network security operations);
- knowingly uploading or distributing files that contain viruses, spyware, Trojan horses, worms, time bombs, cancel bots, corrupted files, root kits or any other similar software or programs that may damage the operation of another's computer, network system or other property, or be used to engage in modem or system hi-jacking;
- engaging in the transmission of pirated software;

- using any software or device designed to defeat system time-out limits or to allow Guest's account to stay logged on while Guest is not actively using the Wi-Fi Services, is not dining at a BJ's location, or using such account for the purpose of operating a server of any type;
- using manual or automated means to avoid any use limitations placed on the Wi-Fi Services;
- providing guidance, information or assistance with respect to causing damage or security breach to BJ's network or systems or to the network of any other provider; or
- failing to take reasonable security precautions to help prevent violation(s) of this AUP.

Guest Responsibilities

Guests remain solely and fully responsible for the content of any material posted, hosted, downloaded/uploaded, created, accessed or transmitted using the Wi-Fi Services. BJ's has no responsibility for any material created on the BJ's network or accessible using Wi-Fi Services, including content provided on third-party websites linked to the BJ's network. Such third-party website links are provided as internet navigation tools for informational purposes only and do not constitute in any way an endorsement by BJ's of the content(s) of such sites.

Guests are responsible for taking prompt corrective action(s) to remedy a violation of AUP and to help prevent similar future violations.

AUP Enforcement and Notice

Your failure to observe the guidelines set forth in this AUP may result in BJ's taking actions anywhere from a warning to a suspension or termination of your Wi-Fi Services. When feasible, BJ's may provide you with a notice of an AUP violation via e-mail or otherwise allow you to promptly correct such violation. However, BJ's failure or inability to provide notice does not provide you with any recourse or remedy against BJ's.

BJ's reserves the right to act immediately and without notice to suspend or terminate affected Wi-Fi Services in response to a court order or government notice that certain conduct must be stopped or when BJ's reasonably determines that the conduct may: (1) expose BJ's to sanctions, prosecution, civil action or any other liability or which may harm BJ's reputation, (2) cause harm to or interfere with the integrity or normal operations of BJ's network or networks with which BJ's is interconnected, (3) interfere with another BJ's Guest's use of Wi-Fi Services or the internet, (4) violate any applicable law, rule or regulation, or (5) otherwise present an imminent risk of harm to BJ's or BJ's Guests.

BJ's has no obligation to monitor content of any materials distributed or accessed using the Wi-Fi Services. However, BJ's may monitor content of any such materials as necessary to comply with applicable laws, regulations or other governmental or judicial requests or to protect BJ's network and its customers.

Indemnification

You agree to indemnify, defend, and hold harmless BJ's and its affiliates, officers, directors, employees, agents, suppliers, or other partners, from any and all claims, liabilities, costs, and expenses, including reasonable attorneys' fees, arising from your use of the Wi-Fi Services, your violation or breach of this AUP, any violation of any law or regulation, or your violation of any rights of another. This Section will not be construed to limit or exclude any other claims or remedies that BJ's may assert under the AUP or by law.

Limitation of Liability

You assume total responsibility for use of the Wi-Fi Service and the internet and access the same at your own risk. BJ'S AND ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUPPLIERS, OR OTHER PARTNERS HAVE NO RESPONSIBILITY WHATSOEVER FOR THE CONTENT ACCESSIBLE OR ACTIONS TAKEN ON THE INTERNET AND THE WI-FI SERVICES, AND SHALL NOT BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY KIND INCLUDING BUT NOT LIMITED TO ANY LOSS OF USE, LOSS OF BUSINESS, AND/OR LOSS OF PROFIT, ARISING OUT OF OR RELATED TO THE WI-FI SERVICE OR THIS AUP. Under no circumstances will BJ's and its affiliates, officers, directors, employees, agents, suppliers, or other partners be liable to you or any third parties for any amount.

Disclaimer of Warranties

The Wi-Fi Service is provided on an "as is" and "as available" basis. BJ's and its affiliates, officers, directors, employees, agents, suppliers, or other partners make no warranty of any kind, written or oral, statutory, express or implied, including any warranty of merchantability, infringement, or fitness for a particular purpose. No advice or information given by BJ's and its affiliates, officers, directors, employees, agents, suppliers, or other partners about the Wi-Fi Services shall create a warranty. BJ's and its affiliates, officers, directors, employees, agents, suppliers, or other partners do not warrant that the Wi-Fi Service will be uninterrupted, error-free, or free of viruses or other harmful components. You acknowledge (i) that the Wi-Fi Service may not be uninterrupted or error-free; (ii) that viruses or other harmful applications may be available through the Wi-Fi Service; (iii) that BJ's does not guarantee the security of the Wi-Fi Service and that unauthorized third parties may access your computer or files or otherwise monitor your connection; (iv) that BJ's ability to provide the Wi-Fi Service without charge is based on

the limited warranty, disclaimer and limitation of liability specified herein and it would require a substantial charge if any of these provisions were unenforceable.

Arbitration

Any and all disputes, controversies, or claims arising out of, relating to, or having any connection with this AUP or otherwise related to your use of the Wi-Fi Service or the existence, validity, breach or termination thereof, including, but not limited to, any question regarding the validity, interpretation, scope, performance, or enforceability of this dispute resolution provision, will be exclusively and finally settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA") and the AAA Optional Procedures for Large, Complex Commercial Disputes. The arbitrator may, at either party's request, grant injunctive relief. The arbitral award will be the exclusive remedy of the parties for all claims, counterclaims, issues or accountings presented or plead to the arbitrator. Judgment upon the arbitral award may be entered in any court that has jurisdiction thereof. Any additional costs, fees or expenses incurred in enforcing the arbitral award will be charged against the party that resists its enforcement. Nothing herein will prevent the parties from seeking interim injunctive relief against one another. The arbitration will be conducted before a single arbitrator and limited solely to the dispute between Reseller and Company. The arbitration shall be held in Orange County, California, U.S.A. Any decision rendered in such arbitration proceedings will be final and binding on each of the Parties, and judgment may be entered thereon in any court of competent jurisdiction. Any arbitration brought hereunder, and all disputes determined therein, shall be governed by California law. The prevailing Party shall be entitled to recover its attorneys' fees, costs and other expenses. The arbitrator shall not issue any award, grant any relief or take any action that is prohibited by or inconsistent with the provisions of this Agreement and may not, under any circumstances, award punitive or exemplary damages. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

Incident Reporting

Any complaints regarding violation of this AUP should be directed to reportabuse@bjsrestaurants.com. Where possible, include details that would assist BJ's in investigating and resolving such complaint (e.g. expanded headers, IP address(es), a copy of the offending transmission and any log files).

Contact Information: Any notification that BJ's sends to a Guest pursuant to this AUP will be sent via e-mail to the e-mail address on file with BJ's or may be in writing to Guest's address of record. It is Guest's responsibility to promptly notify BJ's of any change of contact information.

Miscellaneous

This AUP constitutes the complete and entire statement of all terms, conditions and representations of the agreement between you and BJ's with respect to its subject matter and supersedes all prior writings or understanding.

The Wi-Fi Service and the AUP are governed by U. S. federal law and/or the laws of the State of California. Any legal action or proceeding relating to your access to, or use of, the Wi-Fi Services or this AUP shall be instituted only in a state or federal court located in the state of California. You and BJ's agree to submit to the jurisdiction of, and agree that venue is proper in, these courts in any such legal action or proceeding.

If any part of this AUP is unlawful, void, or unenforceable, that part will be deemed severable and will not affect the validity or enforceability of any remaining provisions.

Effective Date: July 8, 2011