

**CITY OF MILPITAS, CALIFORNIA  
STANDARD OPERATING PROCEDURE**

**SUBJECT: SOCIAL MEDIA USE POLICY**

**I. PURPOSE**

The purpose of this Social Media Use Policy ("Policy") is to establish for the use of City of Milpitas ("City") Social Media Sites, created, operated and managed by City staff, City officials and any individuals acting in an official capacity when conveying information to members of the public, including residents and community stakeholders.

The City encourages the use of social media sites to facilitate communication and dialogue from the City, and its Departments, about its mission, meetings, activities, and current issues to members of the public. By facilitating such communication and dialogue, however, the City does not intend to create a public forum or a designated public forum by which visitors may address unrelated matters or make comments unrelated to the social media post at issue.

The City has an overriding interest and expectation in protecting the integrity of the information posted on City Social Media Sites and the content that is attributed to the City and its officials and employees.

**II. DEFINITIONS**

- A. "City Social Media Sites" means social media sites created, authorized, and/or operated by the City of Milpitas.
- B. "City official" means any person elected or appointed to a legislative body, commission, or committee of the City.
- C. "City's Website" means as any internet or intranet webpage which represents the City or any of its departments, commissions, or volunteers
- D. "Department" means any City Department or Office that provides essential municipal services to residents and businesses in the City. A list of City Departments and Offices is listed on City's official website, accessible here: <http://www.ci.milpitas.ca.gov/milpitas/departments/>.
- E. "Department Head" means an individual employee of the City that has been designated as the head of a City Department or Office, and is tasked with specific supervisory roles and responsibilities related to the management of that City Department or Office.
- F. "Public Information Officer" or "PIO" means the City employee under general direction who develops, implements, and directs the City's strategic communications plans and proactive employee and community communications on City actions, events, programs, and projects. The Public Information Officer is

responsible for the approval of social media sites, compliance with the terms of this Policy and other roles and responsibilities outlined in this Policy.

- G. "Social Media Administrator" means members of City staff granted all permission levels with respect to any City social media site.
- H. "Social media Site(s)" mean content created and shared by individuals, using accessible, expandable, and upgradable publishing technologies, through and on the Internet. Social media sites include, but are not limited to, the following types of platforms:
  - a. Social networking sites (e.g., Facebook, LinkedIn, Nextdoor);
  - b. Video and photo sites (e.g., Instagram, YouTube, Pinterest, Snapchat);
  - c. Micro-blogging sites (e.g., Twitter);
  - d. Ephemeral messaging applications (e.g. Instagram stories, TikTok); and
  - e. Forums and discussion boards (e.g., Reddit, Google groups).
- I. "Staff" or City staff" means all City employees, Department Heads, officers, volunteers, interns, and any consultants, providers, and contractors acting in an official capacity and when communicating with the public on behalf of the City on City Social Media Sites.

### **III. GENERAL POLICY**

The City's official website at [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov) will remain the City's primary online presence. The City will use official City social media sites as communication tools to disseminate accurate, direct information about City government to the public and as marketing/promotional channels which increase the City's ability to broadcast its messages to the widest possible audience.

The City reserves the right to terminate any City social media site at any time without notice.

### **IV. CONTENT AND POSTING GUIDELINES AND LIMITATIONS**

All City Departments shall adhere to the following content and posting guidelines and limitations listed below in managing City Social Media Sites:

1. Consider your audience when developing messaging, determining language, images and structuring content.
2. Exercise good judgment. Refrain from comments that can be interpreted as slurs, demeaning or inflammatory. As a representative of the City, you have the responsibility to conduct yourself with decorum and present the City in a positive light. Information posted should be practical and appropriately documented.
3. Whenever possible, refer back to the City's official website. The website is the primary source for detailed information. In general, social media can be an alternative point of contact but information should not be posted in lieu of posting on the City website.
4. Access to City Social Media Sites during work hours, on City-owned equipment, should be restricted to official business only.
5. No personal identifying information, except names and City-issued email addresses, of any City staff member, Councilmember, Commission member, or resident, should be included.
6. The City will produce no campaign advertising or promotional materials for political campaigns, candidates, or ballot questions on City social media sites. Moreover,

lobbying on City social media sites in support of or against a particular policy or decision made by the City Council is not permitted.

7. Generally, no photos of identifiable individuals should be posted on City's social media sites without a signed photo release or consent from that individual, unless the photo was taken at a public event, the individual had no reasonable expectation of privacy, or the photo is otherwise a public record under State or Federal law. If City intends to use photos from community events on a City Social Media Site, the best practice would be to ensure there is posted notice regarding this planned use at that City event.

#### **Sponsored Content:**

1. The City may enter into contractual agreements with social media platforms to promote City posts related to City-sponsored events or services that are available to all members of the public.
2. The event or service to be promoted must reasonably relate to and/or advances City goals, objectives, and initiatives and may not be prohibited pursuant to any of the terms and restrictions set forth in this Policy.
3. The City may only enter into contractual agreements with social media platforms to promote its own content, originating on a City Social Media Site, and created by City staff. The City will not sponsor content by any third-party.
4. The City's PIO shall have the discretion to determine whether an event or service meets the requirements, above.
5. All records related to sponsored content will be maintained by the City pursuant to record retention principles and the California Public Records Act.

#### **V. APPROVAL AND ADMINISTRATION OF CITY SOCIAL MEDIA SITES**

Establishment of any City Social Media Site after the effective date of this Policy is subject to the approval of the City's PIO. The City's PIO:

1. Will maintain a list of social media applications which are approved for use by City Departments and City staff.
2. Will maintain a list of all City Social Media Sites, including login and password information.
3. Will approve any new City Social Media Sites requested by Social Media Administrators.
4. Will have access to all City Social Media Sites and be able to immediately edit or remove content from City Social Media Sites in line with this Policy.
5. Will have capabilities to add, change and remove approved social media systems such as Hootsuite, or any other applicable account or management tool in use by the City.

Each City staff member authorized to post on a Department-approved social media site will be responsible for posting new content and responding to and/or moderating comments on that social media site. Resources permitting, interactive social media sites are to be reviewed each business day. All City social media sites shall comply with any appropriate City policies, standards, and any applicable style guide, hereto or subsequently adopted. Any exceptions must be approved by the Public Information Officer.

## **VI. SOCIAL MEDIA ADMINISTRATORS**

Department Heads must designate one or more persons from their group to serve as the Department's authorized Social Media Administrator. The Administrator will have complete authority and direction over the Department's City-approved social media sites, with the exception of duties that fall under the City PIO's authority, as set forth in this Policy. The Administrator's responsibilities include, but are not limited to:

1. Review and recommend pilot projects that expand the use of social media sites beyond outreach;
2. Monitor Department efforts and projects involving outreach using social media and evaluate the effectiveness of these efforts;
3. Ensure that the branding of the Departmental activity is consistent with the overall City effort;
4. Explore ways to incorporate outreach with existing systems in order to improve efficiency, reduce redundant entry and facilitate maintenance in this area; and
5. Post and refresh social media content.

## **VII. RECORD RETENTION AND THE PUBLIC RECORDS ACT**

City Social Media Sites are subject to the California Public Records Act ("PRA"), and any relevant State law, or City ordinances related to open government and transparency. Any content maintained in a social media format that is related to City business, including but not limited to, a list of subscribers, posted communication and private messages sent from or received by a City Social Media Site may be considered a public record and subject to public disclosure.

The Department maintaining the City Social Media Site is responsible for responding completely and accurately to any Public Records Act requests for any social media content. Content related to City business shall be maintained in an accessible format so that it can be readily produced in response to a PRA request. Wherever possible, City Social Media Sites shall clearly indicate that any content posted or submitted for posting are subject to public disclosure. Users shall be notified that public disclosure requests must be directed to the relevant Department.

California law and any relevant City Record Retention schedules apply to all City social media content. Unless otherwise addressed in a specific, adopted schedule, the Department maintaining a City Social Media Site shall preserve records for the required retention period in a format that preserves the integrity of the original record, pursuant to State standards, and is easily accessible. All social media content must be retained for the minimum two years under Government Code section 34090.

## **VIII. PUBLIC TERMS OF USE**

**The following disclaimer and guidelines must be displayed to users or made available by hyperlink on all City Social Media Sites. Any content removed based on these guidelines must be retained pursuant to City's record retention requirements, including the time, date and identity of the poster when available.**

"This is an official [Account/Department Name (City; Milpitas Police Department; etc.)] Social Media Page. The City's Social Media Policy in full is available on the City's main website. The

City's official website ([www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov)) is and shall remain the City's primary means of online communication with the public and should be accessed for forms, documents, online services and other information necessary to conduct business with the City whenever possible.

The City reserves the right to restrict or remove any content that is deemed in violation of this Social Media Policy. It is understood that social media is a 24/7 medium, however, the City's moderation capabilities are not. The City may not see every inappropriate comment right away and is trusting in the maturity of the community to ignore inappropriate or harmful speech until it can be reviewed and/or removed. The City disclaims any and all responsibility for any content posted by third parties that cannot be removed in an expeditious and otherwise timely manner. It is understood that posting is neither private nor confidential and the City makes no representations regarding the social media provider's data privacy.

Any of the following types of content shall be subject to removal, and repeat offenders may be blocked:

1. Comments not topically related to the particular post being commented upon;
2. Comments in support of or opposition to political campaigns, candidates, or ballot measures;
3. Profane or obscene language or content;
4. Content that promotes, fosters, or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, status with regard to public assistance, national origin, physical or mental disability or sexual orientation, or any other classes protected under federal, state or local law;
5. Sexual content or language or links to sexual content;
6. Disparaging, harassing or threatening content;
7. Solicitations and/or promotions of commerce and/or businesses;
8. Conduct and/or encouragement of illegal activity;
9. Information that may tend to compromise the safety or security of the public or public systems;
10. Content that violates a legal ownership interest of any other party or that violates any federal, state or local law; or
11. Identical posts by the same user or multiple users."

## **IX. ADDITIONAL TERMS**

1. The use of a "like" (or similar) feature between the City and a private person or entity does not indicate the City's endorsement of that person or entity's actions or comments. City's interactions with members of the public on social media do not constitute an official endorsement of those comments or policies.
2. The City will approach the use of social media tools as consistently as possible, in accordance to an approved style guide.
3. There shall be no social media comments on live streaming of City Council meetings; the procedure for submitting electronic public comment for City Council meetings are handled separately from this Policy.
4. City Social Media Sites are not to be used as campaign tools. However, they may provide objective information about election procedures, ballot instructions, polling locations, candidate forums, and debates as a means of conveying information to members of the public regarding upcoming elections. State and federal campaign laws and City policies and ordinances governing elected officials' activities shall be followed.

No public funds will be used to support or oppose a local or statewide ballot measure, and, further, that no public funds will be used for any campaign for public office.

5. The sharing of posts or information from other public entities shall be allowed if such sharing helps the City meet its goals or objectives, or if it has been determined by the Department Head to be beneficial to the community. The sharing of posts or information from private businesses shall be prohibited.

## **X. PERSONAL SOCIAL MEDIA USE BY CITY REPRESENTATIVES**

The City recognizes that City officials, City staff and any other City personnel ("City representatives") have the right to express their personal views through private social media use. However, City representatives bound by this Policy must understand that non-public information (e.g., proprietary information; confidential personnel matters; and attorney-client privileged information; etc.) may not be conveyed through social media unless and until the release of such information becomes lawful and has been authorized by the City in accordance with federal or state law.

City representatives do not need to obtain permission from the City to participate in social media in their personal capacity. City representatives are encouraged to check with City management if they have any questions related to personal use of social media.

The City is not responsible for the contents or accuracy of material posted when a City representative is using social media in a personal capacity. Publication of such content on a personal social media site does not constitute an endorsement by the City. City representatives acting in a personal capacity should do everything reasonably practicable to make certain that it does not appear to other social media users or the public that they are speaking for the City.

City representatives shall not use official City email accounts when establishing, setting up, or using social media sites for personal or non-City/non-official activities.

When City representatives bound by this Policy, including City officials, use social media in their respective personal capacities, they acknowledge that posts related to City business may be deemed public records under the California Public Records Act. Further, City officials should avoid blocking third parties or deleting posts and/or comments on personal social media accounts as many public officials have been sued on this basis under First Amendment principles.

### **Additional Restrictions Specific to City officials:**

1. City officials must keep their social media presence separate from that of the City, and from that of other City officials. City officials shall include the following language on their personal social media sites to prevent confusion and false public expectations that their sites are affiliated with the City: "This page is not operated by the City of Milpitas and is not a reflection of the City's policies or opinions." For City officials on the City Council, the language shall be as follows: "This page is not operated by the City of Milpitas and is not a reflection of the City's policies or opinions or those of the City Council."
2. City social media sites will be managed consistent with the Brown Act. City officials shall only comment, like, share, retweet, etc. any published City social media posting when doing so encourages public participation or otherwise disseminates information in a manner consistent with this Policy, but should be wary of sharing opinions on those postings to limit the risk of a Brown Act violation and should never share opinions on

items before the City Council that require due process including but not limited to land use matters, and other matters involving life, liberty, or property interests. Officials shall not use electronic communications to engage in serial meetings in violation of the Brown Act.

- i. For example, if Acme Housing Project has been approved by the Planning Commission, and will come before the City Council as a public hearing item for approval, City Councilmember A cannot post on social media his or her thoughts on Acme Housing Project before the time of that public hearing.
3. During an emergency, make sure to only share confirmed information on personal social media sites to avoid confusion and refer constituents to the official City of Milpitas website or City social media sites for up-to-date information.

The City is not responsible for the contents or accuracy of material posted on City officials' personal social media sites, or for any comments made by City officials on City's Social Media Sites posted independently and without the City's consent or approval. Publication of such content does not constitute an endorsement by the City.

## **XI. VIOLATIONS**

Violation of this Policy may result in disciplinary action up to and including revoked access to City Social Media Sites, and for City employees, dismissal from employment. Additionally, failure of City representatives to abide by this policy, following its adoption, may result in one or more of the following:

- a. Disciplinary action, up to and including termination (for City staff);
- b. Removal from office (for appointed City officials);
- c. Censure (for elected City officials);
- d. Breach of contract (for City consultants);
- e. Revocation of official electronic device privileges (for City staff); and
- f. Judicial enforcement against the City directly, by the requesting party.

APPROVED:



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Steven G. McHarris, City Manager

SOP/09-20

## **ACKNOWLEDGEMENT OF SOCIAL MEDIA USE POLICY**

I hereby acknowledge that I have received a copy of the City of Milpitas's Social Media Policy and that I understand that I am to read and comply with its contents. I am aware that failure to comply with this Policy may lead to disciplinary action, up to and including termination. I further understand that if I have any questions about the Policy or its contents, I am to discuss them with my supervisor or the Human Resources Department.

In executing this acknowledgment, I understand that any violation of this policy may lead to disciplinary action against me.

Employee Name: \_\_\_\_\_

Employee Signature: \_\_\_\_\_

Department: \_\_\_\_\_

Date: \_\_\_\_\_

This form shall be retained in Human Resources Department files.