

City of Brighton's Elected Official Social Media Policy

1. BACKGROUND AND PURPOSE

Social media has recently been found to be a public forum subject to First Amendment protections, and can be subject to the Colorado Open Meetings Law, C.R.S. § 24-6-401, *et seq.* To address the fast-changing landscape of the Internet and the way citizens communicate and obtain information online, individuals sitting on City Council may consider using social media tools to reach a broader audience. The City encourages the use of social media to further the goals of City Council, where appropriate, but adopts this Policy to establish guidelines for the use of social media by City Council Members.

2. APPLICABILITY

This policy applies to all individuals of City Council.

3. DEFINITIONS

- (a) "Member" means an individual that sits on City Council.
- (b) "Official Account" means a Social Media account that is used for communicating with the public in relation to City-related activities, duties, or goals.
- (c) "Personal Account" means a Social Media account that is created using personal resources (not City resources) and used solely for communicating with the public in relation to personal activities and opinions.
- (d) "Social Media" means websites and services that focus on creating and fostering online social communities and connecting users from varying locations and interest areas, including without limitation social networks (Facebook, LinkedIn and Nextdoor), instant messaging (SMS), blogs, wikis and online collaboration (SoundCloud), microblogging (Twitter), status updates, online forums and discussion boards, chats, or groups (Google Groups, Reddit, Yahoo and Whirlpool), website link sharing, video conferencing, virtual worlds, location-based services, VOD and podcasting, geo-spatial tagging (Foursquare and Facebook CheckIn), and photo and video sharing (Flickr, Instagram, Snapchat and YouTube).

4. PERSONAL ACCOUNTS TO BE DISTINCT FROM OFFICIAL ACCOUNTS

Personal Accounts and Official Accounts should be distinct and maintained separately. As such, posting and user profiles on Personal Accounts must not state or imply the views, conclusions, statements, or other social media content are an official policy, statement, position, or communication of the City, or represent the views of the City or any City officer or employee. Personal Accounts should include disclaimers indicating the account is personal. For example, a disclaimer could state “this is the personal page of the Member” or “the views expressed are strictly my own.” Personal Accounts can hyperlink to Official Account postings from the City. Personal Accounts must not be created using a City-provided email. Personal Accounts can be deemed Official Accounts by a Court of competent jurisdiction, regardless of when such Personal Accounts were established and for what purpose, if the Member possessed actual authority to speak on the City’s behalf and purported to exercise that authority when the Member spoke on the social media Personal Account.

Official Accounts shall be maintained in a professional manner. Where possible, Official Accounts should include language that indicates the title of the Member and should include a link back to the City's website.

Failure to comply with this Section may expose both the Member and the City to risks associated with First Amendment violations, Fair Campaign Practices Act violations, and Open Meetings Law violations.

5. PROHIBITION ON CAMPAIGNING IN OFFICIAL ACCOUNTS

The Fair Campaign Practices Act prohibits City resources from being used for political purposes. Members shall not use Official Accounts as a tool for reelection or for any other election or campaign purpose. Members who wish to use Social Media for campaigning must establish separate Personal Accounts for that purpose and may not use City resources to create and work on Personal Accounts.

6. MONITORING SPEECH AND ACCESS TO ACCOUNTS

Access to all Official Accounts must be set to "public." Because Official Accounts are public for First Amendment purposes, no member of the public may be banned or blocked from accessing any Official Account.

Comments for a post may be turned on or off. If comments are turned on, no member of the public may be prohibited from submitting a comment unless the member of the public does not comply with the following rules of engagement. Comments from the public may be removed based on the following criteria if carried out in a viewpoint-neutral manner:

- (i) Comments directly advocating violence or illegal activity;
- (ii) Comments containing obscenity, which is defined as sexually explicit and/or pornographic content that is patently offensive, appeals to prurient interest, and lacks serious literary, artistic, political, or scientific value;
- (iii) Comments that directly promote or advocate for illegal discrimination based on race, age, religion, gender, national origin, disability, sexual orientation, veteran status, or any other legally protected class;
- (iv) Comments containing links to malware and/or malicious content that affect the normal functioning of a computer system, server, or browser, or links to inappropriate sexual content;
- (v) Duplicate comments, which act as a distraction from the original post, posted repeatedly within a week or less;
- (vi) Comments containing actual defamation against a person, either as determined by a court or comments that are patently defamatory by easily discovered facts;
- (vii) Comments that contain images or other content that violate the intellectual property or copyrights of someone else, if the owner of that property notifies the Member that the property was posted in a comment on one of the Official Accounts; and
- (viii) Solicitations of commerce.

Alternatively, comments for a post may be turned off (to use Social Media as a one-way communication tool). Comments may only be turned off for the entire public and may not be turned off for individuals, including individuals whose comments are repeatedly subject to removal.

7. UNLAWFUL MEETINGS

Of particular concern for Members' use of Social Media is the risk of violating the Colorado Open Meetings Law. Under the Open Meetings Law, all public business must be conducted in public, and a meeting of more than two Members must be noticed and open to the public (and a meeting can be by electronic means, including Social Media). The dynamic nature of Social Media and the sheer volume of posts may make it difficult to track who is involved in the discussion and detect when the line has been crossed. As such, Members should not communicate about public business with other Members by Social Media, commenting or messaging, whether or not such communication is public or private. While informal communication with constituents is generally acceptable, lengthy discussion of public business in such a manner is risky, and should not be done if other Members are also commenting.

8. COMMUNICATIONS ON PERSONAL ACCOUNTS

Personal Account may be deemed an Official Account by a Court of competent jurisdiction if the Member possessed actual authority to speak on the City's behalf and purported to exercise that authority when the Member spoke on social media. Posts on Personal Accounts that violate the law or City policy, including, but not limited to, discriminatory remarks, sexual-harassment, or threats of violence, are prohibited.

9. CONFIDENTIALITY

No Member may disclose on Social Media confidential or proprietary information, including but not limited to information received at an executive session, acquired by way of his or her official position. This restriction applies whether the information is disclosed on Official Accounts or Personal Accounts, or by any other method.

10. PRESERVATION OF PUBLIC RECORDS

Content published on social media is not a record of the City and are not subject to retention by the City. Even content that relates to the conduct of governmental actions is not an official record of the City and any official action of the City will be retained in official records and never on social media. Social media is a communication tool and as such are not records of official City action.

11. SECURITY OF OFFICIAL ACCOUNTS

Members should use necessary care to maintain the security and integrity of Official Accounts to prevent the unauthorized access or posting of content. Account passwords should be changed regularly, and immediately after the password or Social Media site accessed using the password has been, or is suspected of being, compromised. Passwords should not be shared with any other individual or entity.

12. DISTRIBUTION

This Policy shall be distributed to all current Members and any future Members upon accepting such position.