

CITY OF MENIFEE City Council Policy	Policy Number: CC-04 Approving Authority: City Council
Subject CITY SOCIAL MEDIA FOR PUBLIC OFFICIALS	Effective Date: Last Modified: Page 1 of 5

PURPOSE

Public official use of social media involves unique legal issues and prohibitions. The purpose of this policy is to provide guidance to City of Menifee, ("City") public officials acting in an official capacity and/or communicating on matters related to City business.

RESPONSIBILITY

It is the responsibility of public officials to ensure compliance with this policy.

DEFINITIONS

- (1) **"City assets"** refers to resources owned by the City, which public officials may use in their capacity as a City official. These assets include a City email account, the City logo, City staff assistance, the City's business expense budget, the City's computer and phone equipment, and the City's subscriptions to third party platforms which assist the City in its social media use, including but not limited to ArchiveSocial.
- (2) **"Public official"** refers to individuals who serve on a City Council, Commission, Board, or Committee and who is subject to the Ralph M. Brown Act's requirements that government business be conducted at open and public meetings.
- (3) **"Social media"** refers to media designed to disseminate content (information, images, audio, and video) through social interaction. The term includes "social network sites" that allow individuals and organizations to construct a profile and create and share content with others. Examples of social media include, but are not limited to:
 - Blogs and wikis
 - Podcasting
 - Social networks (Facebook, LinkedIn)
 - Microblogging and short messaging (Twitter)
 - Content sharing sites (Facebook, Instagram, Twitter, LinkedIn, TikTok, YouTube)
 - Online discussion groups and forums

POLICIES AND PROCEDURES

Use of City Assets

City assets are available for public officials to use for social media related to their official capacity with the City. City assets **may not** be used for any other purpose, including for personal or campaign social media and advertisements therefor. When using City assets for social media, public officials are encouraged to conduct themselves as representatives of the City, rather than in an individual, personal, or political capacity. It is not recommended to use City assets for partisan purposes or to communicate on matters not related to City business. When using City assets for social media, public officials are encouraged to communicate in a manner which maintains the integrity and relationships of the City.

Public officials are encouraged to use the City's subscription to ArchiveSocial to assist in maintaining records on social media related to City business.

Disclaimer

When a public official uses social media related to City business, the public official shall clearly identify that the communication belongs to the public official and is not representative of the City's official views. To this end, the following disclaimer shall be used on any social media identifying the public official as connected with the City, even on personal or campaign social media:

"Content on/in this (website/newsletter/blog/page/correspondence/social media page/etc.) does not represent any official position of the City of Menifee, only that of (NAME) in (HIS/HER) personal capacity."

A disclaimer is not required for content reflecting the official position of the City.

Confidentiality

Public officials have access through their position with the City to matters which are privileged or confidential. Public officials are encouraged to respect and maintain the confidentiality of information concerning the City affairs. It is recommended that public officials neither disclose confidential information or records without proper and legally required authorization, nor use such information or records to advance their personal, financial, or other private interests, or the private gain or advantage of others. It is encouraged to direct constituents seeking disclosure of public records to the City Clerk for submission of a California Public Records Act request.

Social Media Reflecting the Official Position of the City

Social media communications which purport to advance the official position of the City shall be revised to be consistent with the official position if found to contain incorrect or misleading information.

COMPLIANCE WITH LAW

Public officials are responsible to comply with all federal, state, and local laws, regulations, and City policies related to social media usage, including but not limited to:

The First Amendment

In *Packingham v. North Carolina*, the United States Supreme Court prescribed social media platforms as “the modern public square.” When a public official uses social media “in an official capacity,” including to promote, discuss, carry out, or reference City-related business and/or activities, those public officials **must** abide by the First Amendment. This includes situations in which a public official utilizes personal, campaign, or other unofficial social media to promote, discuss, carry out, or reference City-related business and/or activities.

These requirements **do not apply** on purely personal social media which are not open and accessible to the general public, are used by the public official in a purely private capacity, and employ the disclaimer set forth above where necessary. Courts decide on a case-by-case basis whether a public official is acting in an official or private capacity. For this reason, it is recommended that public officials abide by this policy wherever they promote, discuss, carry out, or otherwise reference City-related business and/or activities.

Social media promoting, discussing, carrying out, or referencing City-related business and/or activities is subject to the following First Amendment requirements:

- Public officials may not block anyone attempting to access that public official’s social media because of an individual’s viewpoints or perspectives.
- Public officials may not delete any comments on social media because of an individual’s viewpoints or perspectives.
- Content is subject to the California Public Records Act and considered to be an official public record.
- Content is subject to state and local record retention requirements, and the public official is responsible for retaining all posts and comments for the length of time required by applicable law and the City’s records retention policy. Public officials are encouraged to utilize the City’s record-keeping software platform, ArchiveSocial, to maintain records of their City-related social media pages.
- All provisions related to the Ralph M. Brown Act apply.

Notwithstanding the foregoing, some comments may be removed. These comments may include:

- Comments not related to the topic of a post or City business.
- Discriminatory comments.
- Solicitations of commerce.
- Sexual content, or links to sexual content.
- Encouragement of illegal activity.
- Information that could compromise the safety or security of the public.
- Content that violates a legal ownership of any party.

Where possible, public officials are encouraged to report a comment to a social media platform for violating its terms of use, rather than remove the comment independently. Questions regarding when comments can be removed can be directed to the City Attorney.

The Ralph M. Brown Act

Public officials are advised to take caution in any interaction with other individuals or entities via social media, including “liking” a social media post, reposting, commenting, or using any other of electronic communication to respond to, blog, or otherwise discuss, deliberate, or express opinions on any issue within the subject matter jurisdiction of the body on which the public official sits, because such response may create a meeting in violation of the Ralph M. Brown Act (Gov. Code, §§ 54950–54963) or result in disqualification based on prejudgment of issues, to be determined by due process. This requirement applies to any social media, including personal and campaign social media, used by a public official.

Public officials are responsible for informing themselves of the requirements of the Ralph M. Brown Act on social media use, but may use the following as a non-exhaustive summary of relevant requirements:

Permitted uses

- Engaging in separate conversations or communications on social media to answer questions, provide information to the public, or to solicit information from the public regarding a matter that is within the subject matter jurisdiction of the City.
- Commenting and interacting, even with other public officials, on private matters.

Prohibited uses

- Communicating with a majority of the legislative body on social media regarding official City business – including *any* interaction such as “liking,” commenting, or reposting.
- Responding directly to any communication within the subject matter jurisdiction of the City made, posted, or shared by any other member of the legislative body – including *any* interaction such as “liking,” commenting, or reposting.
- Commenting on the same official City topic or post within the City’s jurisdiction as another public official of the same legislative body, even if the two public officials do not directly interact.

Revision History

Revision No.	Date Approved	Approved By:	Comments
0			Original Policy

Bill Zimmerman, Mayor

Date