

**CITY OF ORTING
WASHINGTON
RESOLUTION NO. 2017-29**

ORIGINAL

**A RESOLUTION OF THE CITY OF ORTING,
WASHINGTON, ADOPTING THE POLICY NO. 2017-06,
PERTAINING TO USE OF SOCIAL MEDIA BY ELECTED
OFFICIALS; SETTING AN EFFECTIVE DATE.**

WHEREAS, the City Council of the City of Orting, Washington, recognizes that social media sites such as Twitter, Facebook, and Instagram, among other social media outlets are used by a growing number of people as a way to receive information about the City and the City Council's decisions and actions; and

WHEREAS, the use of such social media outlets by elected officials of the City of Orting is an informative way of relaying information about resolutions, ordinances and other events; and

WHEREAS, the City Council acknowledges that the use of social media by elected officials in the aforementioned ways is subject to the City Council's Rules of Procedure, as well as relevant state and local laws, such as the Washington Public Records Act, Ch. 42.56 RCW and the Open Public Meetings Act, Ch. 42.30 RCW; and

WHEREAS, the City Council finds it is in the best interest of the community to adopt a policy governing the City Council's own use of social media outlets, so as to ensure its own use of social media complies with relevant authority while still enabling elected officials to inform the public of City business in this medium; and

NOW, THEREFORE, the City Council of the City of Orting, Washington, do resolve as follows:

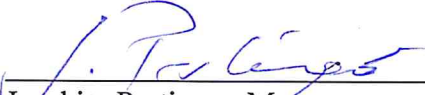
Section 1. Social Media Policy, Adopted. Policy No. 2017-03, the "Social Media Policy" attached hereto as Exhibit A, is hereby adopted by reference as if fully set forth herein.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this Resolution, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Resolution be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Resolution or its application to other persons or circumstances.

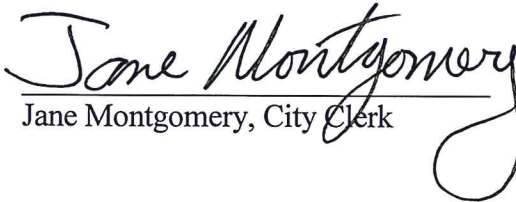
Section 3. Effective Date. This Resolution shall take effect and be in full force immediately upon its passage.

**PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON
THE 13th DAY OF December, 2017.**

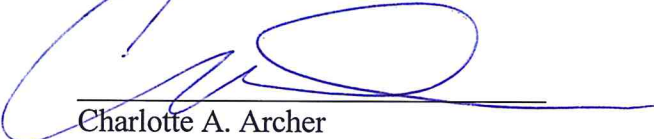
CITY OF ORTING


Joachim Pestinger, Mayor

ATTEST/AUTHENTICATED:


Jane Montgomery, City Clerk

Approved as to form:


Charlotte A. Archer
Kenyon Disend, PLLC
City Attorney



City Council of the City of Orting, Washington

Policy No. 2017-06

Use of Social Media by Elected & Appointed Officials

I. PURPOSE

This policy outlines the roles, responsibilities, and best practice recommendations for the use of social media/new media by individual Council members in their capacity as elected or appointed officials. The City Council is committed to open and progressive communications between Councilmembers and constituents, utilizing available and future on-line technologies within the limits of the law.

It is the City's preference and intent that elected officials will not utilize social media to communicate in their official capacity except through social media sites/tools that are owned or maintained by the City of Orting. The use of private social media sites/tools for this purpose is strongly discouraged.

These guidelines apply to any social media site or tool used by individual Councilmembers in their official capacity to communicate with constituents or the general public. It is the individual Council Member's responsibility to ensure compliance with this policy.

II. REFERENCES

Ch. 42.56 RCW, Public Records Act

Ch. 42.30 RCW, Open Public Meetings Act

RCW 41.06.250, Political activities

RCW 42.17.130, Use of public office

RCW 42.17.190, Use of public facilities in campaigns

III. DEFINITIONS

- a. *The City of Orting.* "The City of Orting" and "the City" includes any office, department, division, bureau, board, commission or agency of the City of Orting.

- b. *Public record.* A writing, regardless of physical form, containing information relating to the conduct of government or the performance of any governmental or proprietary function, prepared, owned, used or retained by the City.
- c. *Social Media.* The use of third-party hosted online technologies that facilitate social interactions and dialogue. These online technologies are operated by non-city hosted services and may be used by the City Council and/or individual Councilmembers to communicate in their official capacity as a City Councilmember, with the public. Such third party hosted services/tools may include, but are not limited to: social networking sites (Myspace, Facebook, Linked-In), micro-blogging (Twitter, RSS feeds), audiovisual networking sites (YouTube, Flickr), blogs, etc.
- d. *Chat.* A feature that allows instant messages to be sent via a social media platform.
- e. *Comment.* A response to a post, an article or other social media content submitted by a visitor.
- f. *Like.* A feature that allows users to show their support for a specific comments, pictures, wall posts, statuses, or fan pages. The “Like” button allows users to show their appreciation for content without having to make a written comment.
- g. *Post.* An original entry onto a social media site by the user of the site.
- h. *Sharing.* The act of relaying a previously created post onto a different social media site.
- i. *Tagging.* A mechanism of linking a person, page or place to a post.
- j. *Visitor.* A person who views an Elected Official’s social media site.
- k. *Elected Official or Councilmember.* Includes Councilmembers and any staff working on a Councilmember’s behalf to represent him or her using a social media tool.
- l. *Official Capacity.* An Elected or Appointed Official utilizes a social media applications, tools, or sites in his or her official capacity if the account identifies the Elected or Appointed Official as a “Councilmember,” or makes similar reference to the Elected or Appointed Official’s position with the City of Orting, or is used to convey information obtained by the Elected or Appointed Official in his or her official capacity.

IV. GENERAL PRINCIPLES

While social media, with its use of popular abbreviations and shorthand, does not adhere to standard conventions of correspondence, the content and tenor of online conversations, discussions, and information posts and comments should model the same professional behavior displayed during Council meetings and community meetings.

Social media are not to be used by Elected or Appointed Officials as mechanisms for conducting official city business other than to informally communicate with the public. Examples of business that may not be conducted through social media include: making policy decisions,

official public noticing, and discussing confidential City matters that have not been approved for release to the public. Elected or Appointed Officials' social media site(s) should contain links directing users back to the City's official website for in-depth information, forms, documents, or online services necessary to conduct official city business.

The Mayor, following consultation with the City Administrator, may cause categories of official City of Orting social media applications, tools, or sites to be permanently or temporarily discontinued if they are not or cannot be used in compliance with this policy. This includes any applications, tools, or sites used by any Elected or Appointed Official in his or her official capacity. The Mayor shall exercise such discretion in a viewpoint-neutral, evenhanded, and non-arbitrary manner.

V. ADMINISTRATION, ENFORCEMENT AND DISPUTE RESOLUTION

The Mayor shall have primary responsibility to administer and enforce the provisions of this policy with respect to social media sites/tools that are owned or maintained by the City of Orting.

Any Elected or Appointed Official aggrieved by an administrative decision or enforcement action of the Mayor under this policy may appeal such decision or action to the City Hearing Examiner by filing a written statement with the City Clerk within five (5) business days of the decision or action. The written statement shall set forth all relevant facts and any supporting legal argument. The Mayor may thereafter file with the City Clerk a written response within five (5) business days. The appealing Elected or Appointed Official shall thereafter have two (2) business days in which to file a written reply with the City Clerk. The Hearing Examiner shall consider all such submittals without a hearing and shall issue a written decision denying or sustaining the appeal with in ten (10) business days following the reply. There shall be no further right of administrative appeal.

VI. ETHICS AND ELECTIONS RULES OF COMPLIANCE

All content posted on individual Elected or Appointed Officials' official capacity social media sites shall comply with applicable City Council Rules of Procedure governing contact with the media, City ordinances and administrative rules, and Washington State law regulating public agencies and elected officials. For social media sites/tools that are owned or maintained by the City of Orting, including any applications, tools, or sites used by any Elected or Appointed Official in his or her official capacity, no content that promotes or advertises commercial services, entities, or products may be posted.

Elected or Appointed Officials shall not post or release proprietary, confidential, or sensitive information on social media sites in a manner that violates applicable state law, including, without limitation, RCW 42.23.070 – Prohibited Acts. Social media sites/tools that are owned or maintained by the City of Orting, including any applications, tools, or sites used by any Elected or Appointed Official in his or her official capacity, shall not contain posts, comments, or links to any content that supports or opposes political candidates or ballot propositions, including, without limitation, links to an Elected or Appointed Official's campaign site.

VII. RECORDS RETENTION ACT COMPLIANCE

State and local records retention laws and schedules apply to social media content.

Except for social media sites/tools that are owned or maintained by the City of Orting, which will be retained through the City's archiving system, it is the ultimate responsibility of each Elected or Appointed Official to maintain current, approved retention procedures and to ensure that those procedures are followed. As with any correspondence sent in his or her capacity as an Elected or Appointed Official, postings to social media sites maintained by others must be retained by the posting Elected or Appointed Official to the extent that such content constitutes a "public record" as defined by Chapter 42.56 RCW. Printouts of postings to others' sites may suffice for retention purposes. Elected or Appointed Officials should consult with the City Clerk for the applicable retention schedule and method.

Content maintained in a social media format, i.e., Facebook, YouTube, Twitter, etc., that is related to City business, including communication between an individual Elected or Appointed Official and constituents or the general public, and a site's listing of "friends" or "followers," may be considered a public record subject to disclosure under the state Public Records Act. **Any social media tools used should clearly state that all content submitted by members of the public is potentially subject to public disclosure pursuant to the Public Records Act, RCW 42.56.** If it is not possible to display this notice prominently on the site, Elected or Appointed Officials shall notify users by including in each post or comment, the following notice:

Posts, comments, or other content posted to this site, may be considered public records subject to public disclosure under the Washington State Public Records Act (RCW 42.56).

In addition to the use of the aforementioned notice, Elected or Appointed Officials shall:

- Ensure that content is retained by the Elected or Appointed Official and City for the legally required retention period based on the subject matter of the content. Prior approval of the retention format and procedures for each social media tool being used must be received from the City Administrator upon the advice and recommendations of the Public Records Officer/City Clerk, Human Resources Director, and City Attorney.
- Use archiving tools approved by the City's Information Technology consultant and Human Resources Director. The City shall maintain current documentation of the approved method and schedule for preserving social media content and provide that documentation to the Elected or Appointed Officials. Ideally, this process will store data in searchable electronic formats and will store information about transmissions, subscribers, and other metadata associated with the site.
- Maintain original appearance and layout of social media site where possible.

- Secure usernames and passwords for all sites by not sharing such information and using unique passwords to minimize the potential for cross site hacks and malicious mischief.
- Consistently monitor activity and posts. Avoid stale or outdated information, respond to questions or responses, quickly remove inappropriate or spam content.
- Notify site visitors that correspondence posted to an Elected or Appointed Official's social media site may be considered public records and may be released per Chapter 42.56 RCW.
- Notify visitors that individual Elected or Appointed Official social media sites are not intended to be used to conduct official city business and any public records request should be made with the City's Public Records Officer. However, a request for public records made to an Elected Official via a social media account may suffice as a request for public records under the Public Records Act. The Elected or Appointed Official shall immediately convey any such requests to the City Clerk, upon receipt.
- Know the Elected or Appointed Official's device's capabilities and devise a strategy for archiving texts, call logs, and other communications. Regardless of whether the device used is paid or reimbursed by public funds, business conducted in the official capacity as an Elected or Appointed Official is a public record. Care should be taken to ensure that records created are retained per the applicable retention period and can be provided if requested.

VIII. OPEN PUBLIC MEETINGS ACT AND APPEARANCE OF FAIRNESS DOCTRINE COMPLIANCE

Communication between Councilmembers via social media, as with telephone and email, may potentially constitute a “meeting” under the Open Public Meetings Act, Chapter 42.30 RCW. For this reason, Councilmembers are prohibited from participating in social media discussions/threads regarding City business that involve a quorum of Council Members, and are strongly discouraged from “friending” other Councilmembers or “liking” other Councilmember’s posts.

In addition, receiving or making posts or comments regarding quasi-judicial matters via social media may violate Council Policy and Chapter 42.36 RCW – the Appearance of Fairness Doctrine. To avoid receiving any comments on pending quasi-judicial matters that may violate the Appearance of Fairness Doctrine, Councilmembers are strongly encouraged to maintain social media sites with settings that can prohibit all users’ ability to post content.

If the public is allowed to post comments to an Elected or Appointed Official’s site, the following “Use Policy” must be displayed or made available by hyperlink. Any content removed in compliance with the “Use Policy” must be retained, including the time, date, and identity of the

poster when available, to the extent required by law. Elected Officials are strongly encouraged to maintain social media sites with settings that can restrict users' ability to comment.

USE POLICY:

The following content will be removed from this site: (1) comments not related to the specified topics for discussion; (2) posts or comments in support of or opposition to political campaigns or ballot measures; (3) profane or obscene language; (4) posts or comments espousing or conveying racially, ethnically, religiously, gender-oriented, discriminatory comments; (5) solicitations and/or transactions of commerce; (6) sexual content or links to sexual content; (7) encouragement, promotion or undertaking of illegal activity; (8) information that may tend to compromise the safety or security of the public or any City equipment, property or system; [AND](9) content that violates a legal ownership interest of any party; and (10) posts or comments that would constitute ex parte communications in violation of the Appearance of Fairness Doctrine.

Elected or Appointed Officials are discouraged, in their official capacity, from posting or commenting on social media sites that require membership or subscription. When posting information or soliciting feedback on such a site, Elected or Appointed Officials should always provide an alternate source for the same information or mechanism for feedback on the City's public web site, so that those who are not members of the social media site may have equal access.