

ORDINANCE 2019-06

AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, LAKE WALES CODE OF ORDINANCES; AMENDING THE INFORMATION SYSTEMS POLICIES TO INCLUDE SOCIAL MEDIA USE; AMENDING DEFINITIONS; CREATING GUIDELINES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

BE IT ENACTED by the City Commission of the City of Lake Wales, Polk County, Florida.

SECTION 1. Chapter 2, Administration, Lake Wales Code of Ordinances is hereby amended to read as follows:

ARTICLE III PERSONNEL ADMINISTRATION.

DIVISION 1. GENERAL POLICIES.

Secs. 2-230.12 Social Media

(a) The City of Lake Wales permits departments to utilize social media sites and social networking sites (collectively “social media sites”) to further enhance communications with its residents and various stakeholders in support of the City’s goals and objectives. City departments have the ability to publish articles, facilitate discussions and communicate information through such media to conduct official City business. Social media sites facilitate further discussion of City government business, operations and services by providing members of the public the opportunity to participate in many ways using the Internet. This policy sets forth general guidelines that must be adhered to with respect to utilization of social media sites for official City purposes. Questions regarding this Policy should be directed to the Human Resources Director. These guidelines may be supplemented by more specific administrative procedures and rules as may be issued. Furthermore, this Policy may be amended from time to time, and is meant to be read in conjunction with all other applicable policies and procedures of the City of Lake Wales.

Secs. 2-230.13 Definitions

(a) *Social media sites and social networking sites* refer to websites that facilitate user participation, networking, and collaboration through the submission of user generated content. Social media in general includes tools such as: blogs, wikis, microblogging sites, such as Twitter; social networking sites, such as Facebook and LinkedIn; and video sharing sites, such as YouTube.

(b) *A social media identity* is a specific user identity or account that has been registered on a third party social media site.

(c) *A moderator* is an authorized City of Lake Wales employee, who reviews, authorizes and allows content submitted by the City officials, employees and public commentators to be posted to a City of Lake Wales social media site or sites.

Secs. 2-230.14 Policy

(a) All City social media sites shall be:

- 1) Approved by the City Manager or his designee: and
- 2) Published using social media platform and tools approved by the Information Technology Department (“IT”).

(b) The official posting for the City will be done by the Public Information Officer or their designee.

(c) Departments have the option of allowing employees to participate in existing social media sites as part of their job duties, or allowing employees to create social media sites as part of their job duties. Department Heads may allow or disallow employee participation in any social media activities in their departments.

(d) All City social media sites shall adhere to applicable state, federal and local laws, regulations and policies including the Public Records Law, Public Records retention schedules, Open Meeting Law, Copyright Law and other applicable City policies.

(e) Public Records Law and e-discovery laws and policies apply to social media content. Accordingly, such content must be able to be managed, stored and retrieved to comply with these laws. Furthermore, once such content is posted on a social media site, it should stay posted, unless it is removed for one of the reasons set forth below in paragraph (K) 1-12, or it is changed to fix spelling or grammar errors.

(f) All social media sites and entries shall clearly indicate that any content posted or submitted is subject to public disclosure.

(g) Each City social media site shall include an introductory statement which clearly specifies the purpose and scope of the social media/network site. Where possible, social media sites should link back to the official City of Lake Wales Internet site for forms, documents and other information.

(h) Each City social media site shall indicate to users that the site is subject to a third party's website Terms of Service. Furthermore, each City social media site shall indicate that: the social media site provider could collect personal information through user's use of the social media site; and that this personal information may be disseminated by the third party; and that such dissemination may not be governed or limited by any state, federal or local law or policy applicable to the City.

(I) All social media sites shall clearly indicate they are maintained by the City of Lake Wales and shall have the City contact information prominently displayed.

(j) The City reserves the right to restrict or remove any content that is deemed in violation of this policy or any applicable law.

(k) City social media content and comments containing any of the following forms of content shall not be allowed for posting:

- 1) Comments or content not typically related to the particular site or blog article being commented upon;
- 2) Profane, obscene, or vulgar language or content;
- 3) Comments or content that promotes, fosters or perpetuates discrimination on the basis of race, color, gender, gender identity, national origin, religion, ancestry, age, sexual orientation, disability, maternity leave, genetic information, or active military status;
- 4) Comments or content that is threatening or harassing;
- 5) Sexual comments, content, or links to sexual content;
- 6) Conduct or encouragement of illegal activity;
- 7) Information that may tend to compromise the safety or security of the public or public systems;
- 8) Content that violates a legal ownership interest of any other party;
- 9) Protected health information;
- 10) Personal information; or
- 11) Other information that is not public record or is otherwise privileged from public disclosure.

12) Sharing any content from an elected official's social media page(s).

(l) All City social media moderators shall be trained regarding the terms of this policy, including their responsibilities to review content submitted for posting to ensure compliance with the policy.

(m) Where appropriate, City IT security and/or computer use policies shall apply to all social media sites and articles.

(n) Employees representing the City via social media sites must conduct themselves at all times as a representative of the City and in accordance with all applicable rules, regulations, and policies (including personnel policies) of the City.

(o) No City or department social media site can endorse or otherwise cite (either with approval or disapproval) vendors, suppliers, clients, citizens, co-workers or other stakeholders.

(p) Employees found in violation of this policy may be subject to disciplinary action, up to and including termination of employment.

Secs. 2-230.15 Guidelines for Use of Social Media Sites

(a) *Electronic Communications and Computer Usage Policy.* All employees are responsible for understanding and following the City's Electronic Communications and Computer Usage Policy, in addition to this Policy.

(b) *First Amendment Protected Speech.* Although the City can moderate the social media sites that accept comments from the public (such as blogs and wikis) to restrict speech that is obscene, threatening, discriminatory, harassing, or off topic, employees cannot use the moderation function to restrict speech with which the City merely disagrees (i.e. subject matter restrictions). Users have some First Amendment rights in posting content to public social media sites hosted by municipalities. Moderators must respect those rights by posting all comments other than those excluded for specific legitimate reasons, as referenced above.

(c) *Copyright Law.* Employees must abide by laws governing copyright and fair use of copyrighted material owned by others. Never reprint whole articles or publications without first receiving written permission from the publication owner. Never quote an excerpt of someone else's work without acknowledging the source, and, if possible, provide a link to the original.

(d) *Conflict of Interest.* Employees are prohibited from using social media to engage in any activity that constitutes a conflict of interest for the City or any of its employees.

(e) *Protect Confidential Information.* Never post legally protected personal information that you have obtained from the City (e.g., information that is not public record under the Public Records Law or whose dissemination is restricted under applicable Federal or State privacy laws or regulations). Ask permission to publish or report on conversations that occur within the City. Never post information about policies or plans that have not been finalized by the City, unless you have received explicit permission from your supervisor to post draft policies or plans on the department's social media sites for public comment.

(f) *Consider Your Content.* As informal as social media sites are meant to be, if they are on a government domain or a government identity, they are official government communications. Social media sites will be sought out by mainstream media – so a great deal of thought needs to go into how you will use the social

media in a way that benefits both the City and the public. Employees should not comment about rumors, political disputes, or personnel issues, for example.

(g) Handling Negative Comments. Because the purpose of many social media sites, particularly department blogs and wikis, is to get feedback from the public, you should expect that some of the feedback you receive will be negative. Some effective ways to respond to negative comments include:

- 1) Providing accurate information in the spirit of being helpful;
- 2) Respectfully disagreeing; and
- 3) Acknowledging that it is possible to hold different points of view.

(h) Respect Your Audience and Your Coworkers. Do not use ethnic slurs, personal insults, obscenity, or engage in any conduct that would not be acceptable in your department's workplace. Do not be afraid to be yourself, but do so respectfully. This includes not only the obvious (no ethnic slurs, personal insults, obscenity, threats of violence, etc.) but also proper consideration of privacy and of topics that may be considered objectionable or inflammatory— such as party politics and religion. Do not use your department's social media presence to communicate among fellow City employees. Do not air your differences with your fellow City employees on your department's social media's sites.

(I) Use the Social Media Site or Identity Only to Contribute to your Department's Mission. When you contribute to your department's social media site or identity, provide worthwhile information and perspective that contribute to your department's mission of serving the public. What you publish will reflect on the City. Social media sites and identities should be used in a way that contributes to the City's mission by:

- 1) Helping you and your co-workers perform their jobs better;
- 2) Informing citizens about government services and how to access them;
- 3) Making the operations of your department transparent and accessible to the public;
- 4) Creating a forum for the receipt of candid comments from residents about how government can be improved; and
- 5) Encouraging civic engagement.

(j) Mistakes. The City policy is that once something is posted, it should stay posted. Only spelling errors or grammar fixes should be made without making the change evident to users. If you choose to modify an earlier post, make it clear that you have done so—do not remove or delete the incorrect content; provide the correct information and apologize for the error. Ways to accomplish this include:

- 1) Strike through the error and correct; or
- 2) Create a new post with the correct information, and link to it from the post you need to correct or clarify.

Either method is acceptable. In order for the social media identity or site to achieve transparency, the City cannot change content that has already been published without making the changes clearly evident to users.

(k) Media Inquiries. City or department social media identities or sites may lead to increased inquiries from the media. If you are contacted directly by a reporter, you should refer media questions to the Public Information Officer.

(l) Personal Comments. Make it clear when you are speaking for yourself as a resident or stakeholder, and not on behalf of the City of Lake Wales. If you publish content on any website of the City and it has

something to do with the work you do or subjects associated with the City, use a disclaimer such as this: “The postings on this site are my own and don’t necessarily represent the City’s positions or opinions.”

(m) *Employee Profile.* If you identify yourself as a City employee ensure your profile and related content is consistent with how you wish to present yourself to colleagues, residents and other stakeholders.

(n) *Defamation.* Be aware that employees acting in their individual capacity (not on behalf of the City) are not immune from defamation claims. Under the law, defamation is established by showing that the defendant published a false, non-privileged statement about the plaintiff to a third party that either caused the plaintiff economic loss or was of the type that is actionable without proof of economic loss. Avoid statements that may be interpreted as defamatory.

(o) *Records Retention.* Social media sites will contain communications sent to or received by employees, and are therefore Public Records. Ensure that the City or department retains a copy of the social media content in accordance with Public Records Retention Schedules. Review the third party social media service provider’s terms of service for its record retention practices. Note that while third party social media providers will most likely save your content for some period of time, they generally will not save it indefinitely. To the extent their policies are inconsistent with Public Records Retention Schedules, the City or department should retain copies of social media posts such as by printing or otherwise storing periodic “snapshots” of the social media sites.

(p) *Open Meeting Law.* Be aware of the Open Meeting Law and possible violations for improper deliberations outside of a posted meeting. A series of individual postings on a social media site cumulatively may convey the position of a quorum of a governmental body regarding a subject within its jurisdiction, and may constitute improper deliberation among the members of a board or committee.

SECTION 2. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. If any clause, section or provision of this ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said ordinance shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

SECTION 4. This ordinance shall become effective immediately upon its passage by the City Commission.

CERTIFIED AS TO PASSAGE, this 3rd day of April, 2019.

CITY OF LAKE WALES, FLORIDA



Mayor/Commission

ATTEST:

City Clerk

2-230.12 Social Media

2-230.13 Definitions

2-230-14 Policy

2-230.15 Guidelines for Use of Social Media Sites

2-230.126 Take home vehicles

2-230.137 Employee Recognition