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BILL No. 2020-150

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**An Order to adopt the Amesbury Social Media Policy for Elected and Appointed Officials**

**Summary:** The City of Amesbury shall adopt the Amesbury Social Media Policy for Elected and Appointed Officials contained within this Order.

**Whereas,** social media communications are an important element of personal and professional communication for municipalities, their residents, and their elected and appointed officials, but if handled improperly can too easily become problematic for any combination of said parties.

**Whereas,** elected and appointed officials may have separate public and personal social media accounts, public perception can easily blur distinctions.

**Whereas,** this Social Media Policy extends the basic tenets of the City of Amesbury Code of Ethics, as stated in the Code's preamble: *The public judges its government by the way public officials (and employees) conduct themselves in the posts to which they are elected or appointed. The people have a right to expect that every public official (and employee) will conduct himself/herself in a manner that will tend to preserve public confidence in and respect for the government he/she represents. Such confidence and respect can best be promoted if every public official (and employee), whether paid or unpaid, and whether elected or appointed, will uniformly (a) treat all citizens with courtesy, impartiality, fairness and equality under the law; and (b) avoid both actual and potential conflicts between their private self-interest and the public interest.*

**Whereas,** the September 17, 2020 Massachusetts Municipal Councilor Association's webinar *Managing the Media* states "Be aware of your city's social media policies. If your community does not have one [social media policy] yet, advocate for one."

**Whereas,** the Massachusetts Municipal Association advises (January 2019) in *Considering Social Media Policies in the Context of the Open Meeting and Public Records Laws* that municipalities should develop a written policy on the use of social media by officials and that having a social media policy will help to avoid unintended conflicts or problems under Open Meeting Law and Public Records Law.

**Be it Ordained by the City Council of the City of Amesbury assembled and by the authority of the same, as follows:** The City of Amesbury shall adopt the Amesbury Social Media Policy for Elected and Appointed Officials contained within this Order.

# Amesbury Social Media Policy for Elected and Appointed Officials

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## City of Amesbury Social Media Policy

### I. Policy:

A. Introduction. The City of Amesbury (the "City") depends upon an environment of tolerance and respect for the achievement of its goals in serving the citizens of the City.

B. Purpose. The purpose of this policy is to provide notice to appointed and elected Board, Committee, and Commission Officials their use of social media must conform to MA state law, the City of Amesbury Code of Ethics, and this policy. This policy is designed to promote the professional and personal use of social media in a responsible manner and to avoid uses that can: (1) breach confidentiality by revealing protected information about the City, its citizens, or its employees; (2) expose the City to liability for behavior that may be harassing, offensive, or maliciously false, (3) interfere with productivity and/or ability to perform the duties and responsibilities as Officials of the City, or 4) constitute a violation of MA Open Meeting Law.

### II. Definitions:

1. The City: City of Amesbury.
2. Official: An individual who holds office on a City board, committee or commission, whether elected or appointed.
3. Social Media: Online forums in which individuals participate in the exchange of ideas, messages, and content, including but not limited to blogs, websites and website comments, and social networking sites such as Facebook, Twitter, or other public forums and messaging boards.
4. Electronic Media: All forms of electronic communication, transmission, or storage, including but not limited to, email, blogs, websites and website comments, and social media forums such as Facebook, Twitter, or other public forums and messaging boards.

### III. General Provisions:

A. While Officials may maintain and use personal web pages and websites, blogs, social networking sites and other forms of social and digital media, their status as Officials of the City requires that their social media postings and digital media content not be in violation of City ordinances, policies, directives, rules, or regulations. The City's image as an organization comprised of dedicated and mindful elected and appointed officials is essential in maintaining the respect and confidence of its constituents. Although the City recognizes that Officials may choose to express themselves by posting personal information on social media and in digital media upon electronic sites hosted by other persons, groups or organizations, this right of expression should not interfere with the operation of the City and should be in compliance with MA state law, the City of Amesbury Code of Ethics, and this policy. *That is, although the City acknowledges its Officials have the First Amendment right to free speech, Officials should exercise prudence and caution with respect to comments they post, particularly those concerning the City, the business of the City, other elected or appointed Officials, and members of the general public.*

## Amesbury Social Media Policy for Elected and Appointed Officials

B. Officials should use their best personal judgment when using any form of social media and must ensure that their use does not violate this or any other City policy.

C. All use of social media and digital content is subject to the following conditions:

C1. There is no guarantee of privacy when using digital or social media. The City reserves the right to review all electronic records and communications. Content that is maintained by the City is also subject to Public Records Law.

C2. Officials must not reveal any confidential or privileged information about the City, its constituents, or its contractors. Officials must be particularly careful to protect against the inadvertent disclosure of confidential information.

C3. Officials should be honest and accurate when posting information or news. Officials should not post any information or rumors they know to be false or that could be construed to impugn or misrepresent the character of the City, its employees, residents, officials, suppliers, vendors, contractors or any other entities or individuals.

C4. If the City is a subject of the content created by an Official, the Official should make it clear that his/her personal views do not represent those of the City or its employees, officials, suppliers, vendors, or any other agent of the City unless designated to do so. Officials who post content related to their role with the City should make clear that they are not speaking on behalf of the City unless they have been expressly designated to do so.

C5. Officials must recognize that posting content regarding City-related matters may result in the violation of the Open Meeting Law. Officials should consult the MA Attorney General's *Open Meeting Law* page at <https://www.mass.gov/the-open-meeting-law> and the Open Meeting Law Guide and online training information provided to them by the City Clerk's Office for more information. Additional information about the use of social media and Open Meeting Law is available in the "MMA Policy Committee on Municipal and Regional Administration *Best Practice Recommendation: Considering Social Media Policies in the Context of the Open Meeting and Public Records Laws*" dated January 2019 - main points are captured in the following introductory paragraph and bullets:

As stated in the Guide to the Massachusetts Public Records Law, "The Public Records Law applies to all government records generated, received or maintained electronically, including computer records, electronic mail, video and audiotapes." According to the Massachusetts Municipal Records Retention Manual, electronic records must be managed and maintained in accordance with an electronic records management plan. In the context of social media, here are recommended actions for members of public bodies:

## **Amesbury Social Media Policy for Elected and Appointed Officials**

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- Understand that the intent of your public posts will be examined to determine if there are any open meeting violations.
- Make certain that you do not comment about hearings or other specific public body matters that may fall under its jurisdiction. The expression of an opinion of one public body member on matters within a public body's jurisdiction to a quorum of a public body is considered a deliberation, even if no other public body member responds.
- If you must comment or discuss matters on social media, limit comments to political statements that are not within the public body's jurisdiction.
- Recognize that the distribution of meeting agendas, scheduling information or other procedural information, or the distribution of reports or documents that may be discussed at a meeting, provided that no opinion of a member is expressed, are excluded from the definition of deliberation.
- Always proceed with caution when communicating over social media platforms. It is not always apparent whether a subject is considered public business within the public body's jurisdiction. Even if you feel you are following the law, the Attorney General's Office might disagree.

C6. Officials must be mindful that residents, property owners and others appearing before City boards, committees, and commissions come from all walks of life. Public comments that contain racial slurs or that express bigotry toward a group based on their race, religion, national origin, sexual orientation, age, gender, gender identity or any other protected classification shall be considered unacceptable conduct of a City Official and may constitute cause for removal of the Official.

D. Beyond the above general provisions, appointed and elected Officials are strongly encouraged to consider the impact of their statements before making them. The City strives to be professional in its operations and processes. Posts that suggest a likelihood of more or less favorable treatment toward any individual or group of individuals, or that can reasonably be construed as harassing in nature reflects poorly on the individual making an inappropriate statement as well as the City and its citizens. Further, comments suggesting such treatment can expose the City to liability and legal costs. All are strongly encouraged to carefully consider their comments before posting them.

### **IV. Violation Outcomes:**

Violation of this Policy may constitute cause for removal of appointed Officials. Elected officials may be subject to a request for their resignation, reprimand, or a recall.

## **Amesbury Social Media Policy for Elected and Appointed Officials**

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### **Acknowledgment of Receipt of Policy**

I acknowledge receipt of this City of Amesbury Social Media Policy for Elected and Appointed Committee and Council Members, and that I have read it. I also understand that I have no expectation of privacy in connection with the use of the City's electronic communications or with the transmission, receipt or storage of information in these systems and that all information I post on social media and in digital media may become public information.

Name (Print) \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Board, Committee, or Commission \_\_\_\_\_