

**CITY OF BALCH SPRINGS, TEXAS**

**ORDINANCE NO. 3017-11**

**AN ORDINANCE OF THE CITY OF BALCH SPRINGS, TEXAS, ADOPTING ARTICLE IX, ENTITLED “SOCIAL MEDIA POLICY” OF CHAPTER 2 (“ADMINISTRATION”) OF THE CITY OF BALCH SPRINGS CODE OF ORDINANCES TO PROVIDE FOR POLICY, PROCEDURES, AND PROHIBITIONS REGARDING THE USE OF SOCIAL MEDIA, INCLUDING BUT NOT LIMITED TO ELECTRONIC MAIL, FACEBOOK, TWITTER, MYSPACE, SKYPE, AND OTHER TECHNOLOGICAL MEANS OF COMMUNICATIONS AS THEY NOW EXIST AND AS THEY MAY BE DEVELOPED HEREAFTER; PROVIDING FOR SANCTIONS FOR NON-COMPLIANCE; PROVIDING FOR CONFLICTING PROVISIONS; SEVERABILITY; EFFECTIVE DATE; AND PROVIDING FOR PROPER NOTICE AND MEETING.**

**WHEREAS,** the development and proliferation of social networking and communication technology gives rise to various legal, political and ethical concerns with regard to their use by officers, employees, and members of boards and commissions of the City of Balch Springs; and

**WHEREAS,** the City Council of Balch Springs desires to establish prudent and acceptable practices regarding use of the internet, including electronic mail, Twitter, Facebook, MySpace, Skype and other existing and developing technologies whereby such officers, employees and board and commission members will not impair the work of any official, employee, board or commission; will not harass or demean any person; will not disrupt the smooth and orderly flow of work; will not harm the goodwill and reputation of the City among its citizens or in the community; and will not create a hostile working environment; and

**WHEREAS,** the City of Balch Springs finds that the following ordinance is in the best interest of the City;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BALCH SPRINGS, TEXAS, that:**

**SECTION 1.** All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council, and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

**SECTION 2.** A new Article IX of Chapter 2 of the Code of Ordinances of the City of Balch Springs is hereby created and adopted, which shall read as follows:

**ARTICLE IX.—SOCIAL MEDIA POLICY**

**Sec. 2-901. Application**

(a) This policy shall apply to all forms of social media and social networking now or hereafter available or accessible through the World Wide Web, Internet, or other forms of electronic or high-technology communication such as, but not limited to, electronic mail, Facebook, MySpace, Twitter, Skype, electronic games, mobile phone applications, or any similar technology for communication, information-gathering, or interaction and that may be conducted by computer, mobile phone or similar device. Communication by any such means shall be referred to hereafter as “online communication.”

(b) This policy shall apply to all elected and appointed officers, officials, and employees of the City of Balch Springs, and to all members of City boards and commissions, whether such persons are compensated or uncompensated, are volunteers, or are full or part-time employees.

#### **Sec. 2-902. General Guidelines and Regulations**

(a) While on duty or involved in the service of the City, the use of City equipment or internet service by any person working or serving on behalf of the City shall be limited to City work-related tasks. Social media activities shall never interfere with work or duty commitments.

(b) No person may post online communication in the name of, on behalf of, or as an official spokesperson or representative of the City without the approval of that person’s respective supervisor, manager, board or commission chairperson, the City Manager, Mayor, or City Council.

(c) When posting online communication that discusses City-related issues, but which is not post as an approved representative of the City or on the City’s behalf, all persons must make it clear that they are speaking for themselves, and not on behalf of the City by displaying a disclaimer that states: “This is my own opinion and not necessarily the opinion or position held by the City or City Council.”

#### **Sec. 2-903. Official City Social Media Sites and Content**

(a) All City-controlled social media sites shall be maintained by the City Manager or his or her designee. Any content to be posted on City-sanctioned social media sites must meet the approval of the City Manager or City Council before it is posted.

(b) All persons that engage in social media activities on the City’s behalf and all City-controlled social media sites shall adhere to applicable federal, state and local laws, regulations and policies, including the Texas Public Information Act, the Texas Open Meetings Act, and the records retention schedule of the City. All content must be managed, stored and retrieved to comply with these laws.

(c) All online communications posted as representative of the City, or on the City’s behalf shall clearly indicate that it is subject to records retention and public disclosure. All City-controlled social media sites shall clearly indicate that any articles and any other content posted or submitted for posting are subject to records retention and public disclosure.

(d) Any online communications posted as a representative of the City, or content posted to a City-controlled social media site containing any of the following are not allowed:

- (i). Comments not topically related to the particular site or blog article being commented upon;
- (ii). Profane language or content;
- (iii). Content that promotes, fosters, or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, status with regard to public assistance, national origin, physical or mental disability or sexual orientation;
- (iv). Sexual content or links to sexual content;
- (v). Conduct or encouragement of illegal activity;
- (vi). Information that may tend to compromise the safety or security of the public or public systems;
- (vii). Content that violates a legal ownership interest of any other party.
- (viii). Content promoting the commercial interests of an individual, corporation, or association;
- (ix). Content promoting the candidacy of any person seeking local, state, or federal office;
- (x). Content promoting the personal politics or social philosophy of an individual; or
- (xi). Content amounting to libel or defamation of character of any person.

(e) Content submitted for posting on a City-controlled social media site that is deemed unsuitable for posting by the City Manager because it violates criteria in subsection (d) of this section shall be retained pursuant to the records retention schedule along with a description of the reason the specific content is deemed unsuitable for posting.

(f) Any hyperlinks posted on a City-controlled social media site shall be accompanied by a disclaimer which states: "The City guarantees neither the authenticity, accuracy, appropriateness nor security of the link, website, or content linked thereto."

## **Sec. 2-904 Private Use of Social Media**

(a) No person's rights of free speech, association, religion or other civil right may be curtailed or restricted through the adoption and implementation of this policy;

(b) Persons who post online communications at any time, on or off duty, regarding City-related business or City officers, employees, boards, or commissions are encouraged and expected to exercise the highest levels of professionalism, respect, and concern for the reputation and peace-of-mind of persons affected thereby and the reputation and image of the City.

## **Sec. 2-905 Sanctions for Non-Compliance**

An officer, employee, board member, commission member, volunteer or other representative of the City who fails to comply with any provision of this policy may be sanctioned for such non-compliance as follows:

(a). No single act of non-compliance by any person shall be grounds for sanctions of any kind, but may be the topic of counseling, communication, or warning from that person's immediate supervisor, the City Manager, the Mayor, the Chair or President of that person's board or commission, or the City Council;

(b). A second or repeated acts of non-compliance, after counseling, communication or warning as provided in subpart (i) above may be grounds for:

- (i). Written reprimand;
  - (ii). Public Censure;
  - (iii). Probation;
  - (iv). Counseling;
  - (v). or other suitable disciplinary action determined by the City Manager or City Council up to but not including suspension from duty (paid or unpaid); removal from office; or termination of employment.
- (c). A third or more acts of non-compliance following counseling, communication, or warning as provided in subpart (i) above may be grounds for
- (i). Suspension from duty, paid or unpaid;
  - (ii). Removal from a position on a board or commission;
  - (iii). Termination of employment; or
  - (iv). Any sanction described in subparts (i) or (ii) above.

**SECTION 3.** All provisions of the ordinances of the City of Balch Springs in conflict with the provisions of this ordinance be and the same are hereby repealed to the extent of such conflict, and all other provisions of the ordinances of the City of Balch Springs not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 4.** Should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

**SECTION 5.** This ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

**SECTION 6.** It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

**DULY PASSED AND ADOPTED** by the City Council of the City of Balch Springs, Texas, on the 28<sup>th</sup> day of November, 2011.

APPROVED:

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Carrie F. Gordon, Ph.D., Mayor

ATTEST:

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Cindy Gross, City Secretary