

City of Miami Gardens, Florida

SOCIAL MEDIA and ELECTRONIC MEDIA POLICY

I. PURPOSE

The City of Miami Gardens social media and electronic media policy is to use social and electronic media to optimize the operation of the city's ability to serve the public. Additionally, the policy serves: 1) as an electronic media risk policy to identify and mitigate associated risks of using social media and; 2) as a guide to all employees on best practices in using social and electronic media to perpetuate business with the City of Miami Gardens.

II. APPLICABILITY

This policy applies to all full-time, part-time, and temporary employees, volunteers, consultants, service providers, contractors, interns, and others who use social media sites and/or technology on behalf of the City of Miami Gardens.

III. DEFINITION OF TERMS

A. *"Authorized User and Social Media Policy Committee"* is a City of Miami Gardens employee, volunteer, intern, consultant, service provider, contractor and any other person who has been authorized by the City of Miami Gardens to use social media sites and/or technology on behalf of the City of Miami Gardens. This definition applies to City of Miami Gardens business perpetuated by devices used within or outside the workplace.

The Social Media Policy Committee is a designated group of people appointed by the city to address relevant social media and electronic media issues impacting the City of Miami Gardens. This committee will exchange ideas during the year on how to continually improve the use of social media as part of the City of Miami Gardens communication infrastructure.

B. *"Social Media"* is defined as various forms of discussion and information sharing including social networks, blogs, video sharing, podcasts, wikis, message boards, text messaging, e-mail on social media platforms, and other online forums. Examples of technologies include, but are not limited to: picture-sharing, recording audio and video, wall-posting, instant messaging, and music-sharing. Examples of social media applications include, but are not limited to: Facebook, Twitter, Google, Instagram, Vine, Pinterest, Yahoo Groups, Snapchat, YouTube, Flickr, LinkedIn, and other electronic platforms designed to share all forms of communications.

C. *"Social Networking"* is the practice of expanding the number of one's business and/or

social contacts by making connections through web-based applications.

D. Other definitions include, but are not limited to:

1. *Social Media Policy*: A policy to define the policies, risks, best practices and fundamental legal obligations (duty of care) of all employees and other authorized third parties perpetuating business with the City of Miami Gardens.

2. *Social Media Networks*: Facebook, LinkedIn, YouTube, Vine, Tumblr, Twitter, Instagram, Snapchat and other social networks, blogs, other online collaboration, sharing or publishing platform, whether accessed through the web, a mobile device, text messaging, email or any other existing or emerging communications platform.

3. *Social Media Account*: An account set up by City of Miami Gardens to communicate City of Miami Gardens business which can be accessed by an employee at work, via personal Internet connection, personal mobile device, and public Wi-Fi connection. A City of Miami Gardens account is for business purposes only and the domain name, phone numbers, social security numbers, confidential data sets, approved friends list, photos, and any other City of Miami Gardens developed content. All work-related account data is the property of City of Miami Gardens during the time a person is an employee of City of Miami Gardens and after the employee is no longer working or affiliated with City of Miami Gardens.

4. *Social Media Content*: Posts, pictures, video, audio, blog posts, blog comments, status updates, Facebook timelines, text messages, email or any other information made available through social media platforms that relate or perpetuate City of Miami Gardens business.

5. *City of Miami Gardens Password*: A combination of letters and numbers given to or created for employees to access social networks for the City of Miami Gardens business use only. The City of Miami Gardens password is the exclusive property of City of Miami Gardens and remains the exclusive property of City of Miami Gardens when an employee no longer works or is affiliated with City of Miami Gardens. City of Miami Gardens complies with all Florida laws regarding passwords. *See Florida Information Protection Act F.S. 501.171.*

6. *City of Miami Gardens User Name*: A combination of letters and numbers given to or created for employees to access social networks for City of Miami Gardens business use only. A City of Miami Gardens user name is the property of City of Miami Gardens and remains the property of City of Miami Gardens when an employee affiliated with City of Miami Gardens no longer has an official relationship with City of Miami Gardens. City of Miami Gardens complies with all Florida laws regarding user names. *See Florida Information Protection Act F.S. 501.171.*

7. *City of Miami Gardens User Profile*: A user profile is information about a City of Miami

Gardens employee should be confined to pertinent City of Miami Gardens information. For instance, the user profile includes but is not limited to name, office title, office address, office phone, office e-mail. A City of Miami Gardens user profile is the property of the City of Miami Gardens and remains the exclusive property of the City of Miami Gardens when an employee no longer works or is affiliated with the City of Miami Gardens. The City of Miami Gardens complies with all Florida laws regarding user profiles. See *Florida Information Protection Act F.S. 501.171*.

8. *City of Miami Gardens Employee*: An individual who is employed by the City of Miami Gardens. (See official job description, title, and legal status.)

9. *Third Party*: A volunteer, citizen or other person accessing or storing data via social media accounts to perpetuate business with the City of Miami Gardens.

10. *Privacy*: Refers to current federal, state and local privacy laws.

11. Public Records Code. Florida Public Records Act 119

12. *Custodian*: Defined by Florida Public Records Act 119.07

13. *Sunshine Laws*: Florida Statute 286.011

14. *Friending*: This is a term used by social media networks that gives users an opportunity to limit access to an individual's account and select specific people to gain access to posts, pictures, audio, video, and other social media communications.

15. *Wi-Fi*: Wireless technology that enables employees or other authorized third parties access to the Internet. Wi-Fi includes wireless technology provided by the City of Miami Gardens or access to Wi-Fi from a merchant or other public place.

16. *Personal Communication Device*: A desktop, laptop, smartphone, traditional cell phone, tablet, wearable technology or other mobile device that is personally owned by the City of Miami Gardens employee whereby social networks, blogs, micro-blogs (i.e. Twitter), and all other electronic data can be accessed at the workplace and away from the workplace.

17. *Ownership of Data*: Refers to all City of Miami Gardens work-related electronic content sent or received from City of Miami Gardens issued equipment, personal devices, or a third party server (Cloud).

18. *Stipend*: Money that is provided to a City of Miami Gardens employee or help pay for an electronic device to perpetuate City of Miami Gardens business. In no way does a stipend from the City of Miami Gardens infer that the city will represent the social media user in any type of legal claim.

19. *Libel*: "Libel" means a malicious defamation, expressed either by printing or by signs or pictures or the like, tending to blacken the memory of one who is dead, or to impeach

the honesty, integrity, virtue or reputation, or publish the natural defects of one who is alive, and thereby to expose him to public hatred, contempt or ridicule. (2) "Slander" means any libel communicated by spoken words. See *Florida Chapters*. 770, 836

20. *Unprotected Speech*: Categories of unprotected speech under the First Amendment; the categories include but are not limited to defamation, fighting words, obscenity, hate speech, true threats. See cases ranging from [Chaplinsky v. New Hampshire, 315 US 568 \(1942\)](#) to [Garcetti v. Ceballos, 547 US 410 \(2006\)](#).

21. *Forwarding Liability*: Liability that attaches when a City of Miami Gardens employee forwards work-related and non-related work data that violates civil, criminal, and administrative law from City of Miami Gardens equipment, employee home computers, employee personal mobile devices, or other electronic communications to another person or group.

22. *Safety*: The word safety refers to industry grade software that City of Miami Gardens uses to secure data on City of Miami Gardens electronic platforms. There is the realization notwithstanding the reasonable efforts by the City of Miami Gardens in securing work-related electronic data, the Internet, social networks, blogs, micro-blogs and other electronic platforms, that there can't be one hundred percent security. City of Miami Gardens makes every reasonable effort to comply with all federal and state data protection laws. See *Florida Information Protection Act F.S. 501.171*

23. *Unauthorized Endorsements, and Gifts*: Unauthorized endorsements refer to any employee either directly or indirectly states the City of Miami Gardens endorses any company or product on social media or any other electronic platform (i.e. sponsored stories on Facebook, using the like button or writing product endorsements on blogs) without the proper authorization of the City of Miami Gardens.

24. *Unauthorized Advertisements*: Refers to any that either directly or indirectly advertises via pictures, posts, video, and audio that the City of Miami Gardens approves of an advertisement of a company, product or service.

25. *City of Miami Gardens Website Links*: The City of Miami Gardens makes every reasonable effort to filter out all links that could inadvertently result in downloading malware or redirects someone to an offensive website. If an authorized link has been disabled or redirects you to an offensive website, the user should immediately contact the appropriate person or department.

26. *Social Media Harassment*: Persistent and unwelcome posts, pictures, audio, and video to or about City of Miami Gardens employees. This unwelcome communication is used to deliver direct or perceived threats of removing a tangible work benefit of the victim if a request isn't complied with or the threats create a hostile work environment for the victim. (*Faragher v. City of Boca Raton, 524 U.S. 775 (1998)*, *Burlington Industries, Inc. v. Ellerth, 524 U.S. 742 (1998)*)

27. *Cyberstalking*: See Florida Statute 784.048

28. *City of Miami Gardens or City*: Refers to City of Miami Gardens, Florida

29 *Recording Devices*: See Florida Statute 934.03

30. Wearable Technology: Wearable technology, tech togs, or fashion electronics are clothing and accessories incorporating computer and advanced electronic technologies. The designs often incorporate practical functions and features, but may also have a purely critical or aesthetic agenda. (i.e. Smartwatches, Google Glasses)

31. Cloud Storage: Cloud storage is a model of data storage where the digital data is stored in logical pools, the physical storage spans multiple servers (and often locations), and the physical environment is typically owned and managed by a hosting company.

IV. POLICY

A. GENERAL

This policy applies to all employees doing business via social media with the City of Miami Gardens. The policy covers both social media communication via City of Miami Gardens owned equipment or personal devices. In conformity with recent court rulings that social media users are broadcasters engaged in high liability communications, all City of Miami Gardens employees doing business with City of Miami Gardens have a higher duty of care to follow all federal, state, and local rules regarding the reputational and privacy rights of others.

The City of Miami Gardens hereby announces to all social media users perpetuating business with the city that despite the best efforts to protect the City of Miami Gardens electronic data, hardware and software, users' data may be hacked, compromised, or infected with malware. This warning also applies to social media users using their personal devices to perpetuate business.

No employee should ever assume that social media is somewhere they can circumvent civil or criminal laws (users should always review the social network's terms of service agreement). This social and electronic media policy is intended to "clearly communicate" and announce the "operational realities" and legal risks associated in using social networking to transact official business with City of Miami Gardens. See *City of Ontario, Cal v. Quon* 130 S. Ct. 2619 -2010.

B. RECORDING

All City of Miami Gardens employees doing business with City of Miami Gardens recording conversations in-person, on the phone with "Wearable Technology" (i.e. Smartwatches, Google Glasses) or other recording technology must be in full compliance with Florida Statute 934.03, and any other relevant laws.

C. PUBLIC RECORDS AND OPEN MEETINGS

City-related content on City of Miami Gardens sponsored websites, social media pages, blogs, micro-blogs (Twitter), and private employee social media pages are subject to the Florida Public Records Act, Open Meetings laws, and other state and federal open record acts. See Florida Public Records Act 119, F.S.286.011.

Depending on court rulings, social media content residing on personal devices and cloud services, that relate to City business, are subject to the Florida Government Records Access and Management Act. All public record requests for work product on a City of Miami Gardens employee's personal device must be forwarded to the City of Miami Gardens City Clerk or designated public records custodian for review.

Additionally, under no circumstances should any employee perpetuating business with City of Miami Gardens conduct a formal or informal independent investigation that entails rummaging through another person's personal smartphone without authorization from the City of Miami Gardens attorney or other authorized person. See Riley v. California 134 S.Ct. 2473 (2014).

D. EXPECTATION OF PRIVACY ON PERSONAL DEVICES

1) To establish your zone of privacy, courts focus on social media content, not the device you used to send or receive the content. In essence, the use of your personal smartphone, tablet or other mobile device gives you no expanded or special legal rights. Your work product on a personal device could be the subject of a public records, request, internal investigation, and e-discovery in a civil and criminal legal case. See *the federal Electronic Communications Privacy Act 18 U.S.C. § 2510 et seq (1986), S. 607 – Electronic Communications Privacy Act Amendments 2013. Rule 1.350 of the Florida Rules of Civil Procedure.*

2) Receiving a stipend, reimbursement, incentive or other related payment by the City of Miami Gardens to purchase or to use a smartphone or other electronic equipment that you use for both work and personal data does not infer that the City of Miami Gardens will represent you in any legal proceeding.

3) Employees perpetuating City of Miami Gardens business on personal devices must receive written notice from the information technology office that verifies your personal device is compatible with data extraction, encryption, installing apps, other software, and other security capabilities.

4) All employees perpetuating City of Miami Gardens business on a personal device must contact the information technology office to verify the protocol in preserving work related data on their personal device; especially in the event the device needs repaired or replaced.

E. OWNERSHIP OF DATA

City of Miami Gardens employees perpetuating business with the city are hereby notified that work related data transmitted, received, accessed, or stored by the City of Miami Gardens network systems remain the property of the City of Miami Gardens. The City of Miami Gardens reserves the right to access or audit this information in accordance with state and federal laws.

Additionally, in the event an employee is no longer a City of Miami Gardens employee with the City of Miami Gardens, the city retains the ownership to all work related data and login information that was created to perpetuate business for the city (i.e. passwords, usernames, contact information, customer lists, and other content created for City of Miami Gardens business.)

Employees are hereby notified that passwords, usernames, and profiles are administrative identifications and do not create an expectation of privacy in the event of a routine audit, public record request, e-discovery in a lawsuit, or internal investigation.

All City of Miami Gardens generated logos, trademarks, text, graphics, pictures, images, video, audio and other communications developed by the city are the copyrighted property of the City of Miami Gardens. The above mentioned content can't be used on personal websites, blogs, and social media pages without the written consent of an authorized City of Miami Gardens official.

F. SAFETY

Despite the best efforts of the City of Miami Gardens and social network companies to provide industry grade security software and hardware, an employee's social network data can be hacked or misused. City of Miami Gardens employees realize they are taking a risk that their data could be stolen or misappropriated when using social networks to transact official business. See *Florida Information Protection Act F.S. 501.171*

G. USE OF WI-FI TECHNOLOGY

All City of Miami Gardens employees perpetuating business with the City of Miami Gardens are hereby apprised of the security risk of using Wi-Fi provided by the City of Miami Gardens, merchants and other private parties. Confidential data must be sent via a secure network. All City of Miami Gardens employees perpetuating business with the City of Miami Gardens must receive permission from the IT Manager, City Clerk or other designated City of Miami Gardens official before sending confidential information from a non-approved Wi-Fi hot spot.

H. PROHIBITED SPEECH, EXPRESSION, AND CONDUCT

All City of Miami Gardens are hereby notified that workplace speech is limited. For example, speech made pursuant to an employee's position as a public employee rather than their rights to free speech as a private citizen on matters of public concern are not always protected under the First Amendment. See *Garcetti v. Ceballos*, 547 [U.S. 410](#) (2006).

To ensure City of Miami Gardens safety, operational fluidity, and public trust, the list below provides a guideline on prohibited speech regarding work-related content on the

City of Miami Gardens social networks, websites and other work related electronic platforms. This guideline also applies to work-related speech on an employee's personal social media networks:

- 1) Hate Speech, Libelous Speech;
- 2) Sexually Harassing Speech;
- 3) Offensive Racist, Religious, Gender, and Age Speech;
- 4) Obscenity prohibited by state and federal law See *Miller v. California* 413 U.S. 15 (1973).
- 5) Fighting words, extortion, and other threats prohibited by state and federal law;
- 6) Speech that reveals protected financial information;
- 7) Prohibited commercial speech;
- 8) Electronic Communications Harassment; FL Code, Title 76 – Chapter 9 – Section 201
- 9) Cyberstalking Speech; Florida Code: Title 76 – Chapter 106 – Section 5
- 10) Terroristic Threat; Florida Code: Title 76 – Chapter 5 – Section 107
- 11) Confidential information under state or federal law;
- 12) Confidential information that compromises the safety of others;
- 13) On-duty or off duty speech that compromises safety, and operations;
- 14) On-duty or off-duty speech that compromises a lawsuit or witness testimony;
- 15) Personal Health Information as defined in federal and state statutes
- 17) True Threats: Federal statute &875 (c)
- 18) All other federal, state, and local prohibited speech not mentioned in this list.

I. DUTY TO REMOVE PROHIBITED SPEECH AND FORWARDING LIABILITY

It is strictly prohibited for any City of Miami Gardens employee to forward the prohibited speech listed above (I) to others. Employees clearly understand that forwarding any electronic message could be interpreted by our legal system as an endorsement of the content and the employee could be exposed to both personal and professional liability.

J. TEXTUAL HARASSMENT ON ALL SOCIAL MEDIA PLATFORMS

All City of Miami Gardens employees that text comments, pictures, audio, video or any other communication that harasses other employees are subject to discipline up to and including termination. There is zero tolerance for any harassing communications on social media to an employee that directly states or infers discrimination by race, sex, religion, creed, ancestry, national origin, age, disability, marital status, or other discriminatory classification by state or federal law. Users also agree not to violate state or federal harassment laws. All employees are hereby notified they may be personally liable for social media harassment. All text messages can be the subject of a public records request and e-discovery in a lawsuit. If you are unsure about the content of your text message, contact the City Clerk or other City of Miami Gardens designated official. City of Miami Gardens text messages should not contain confidential information unless encrypted and be primarily used for short superficial messages that would be understandable to any reasonable person. Text messages are subject to public records retention and destruction requirements in the same manner as if the messages were on printed documents.

K. PERSONAL WEBSITES AND BLOGS

City of Miami Gardens employees are not allowed to use their personal websites or private social media networks to display any City of Miami Gardens developed content such as video, audio, pictures, confidential work data, documents, logos or any other communications for private economic gain or that infers the City of Miami Gardens sponsors their personal electronic platform.

Moreover, in no situation can a City of Miami Gardens employee perpetuating business with the City of Miami Gardens overtly or insinuate that the City of Miami Gardens endorses or authorizes the employee's personal website, blog or private social network account. Employees recognize they are both professionally and personally liable for violating this policy. See [San Diego v. Roe, 543 US 77 \(2004\)](#)

L. UNAUTHORIZED ENDORSEMENTS, ADVERTISEMENTS, GIFTS

City of Miami Gardens employees are hereby notified that unless they receive written authorization from the City Manager, there is zero tolerance for any employee to directly or indirectly suggest that the City of Miami Gardens endorses (i.e. hitting the Facebook Like Button or writing a sponsored story suggesting City of Miami Gardens approves of a product) a commercial service or product on a social network. Employees are hereby notified that unless they receive written authorization from the proper City of Miami Gardens official, they are not allowed to receive gifts from social media games or any form of compensation while perpetuating City of Miami Gardens business.

M. CITY OF MIAMI GARDENS SOCIAL MEDIA AND WEBSITE LINKS

All employees using a City of Miami Gardens sponsored social media site or website are hereby notified that links on these sites may contain malware and offensive content. Any links that are suspicious or redirect users to an offensive site will be reviewed by the social media policy committee or other approved City official. All employees acting in the scope of employment using social media networks are prohibited from linking to sites that are obscene, defamatory, harassing or engaged in illegal activity. All employees should know that clicking on these links may violate civil and criminal laws. Users can be both professionally and personally liable for their actions.

N. CREATING, EDITING AND PUBLISHING ON A CITY OF MIAMI GARDENS SPONSORED SOCIAL MEDIA SITE

Only authorized City of Miami Gardens designees can create, edit, publish or comment on City of Miami Gardens sponsored social media sites and websites. All authorized City of Miami Gardens personnel must follow City of Miami Gardens social media content guidelines, and adhere to local, state, and federal speech laws, including [Chapter 119 of the Florida Statutes](#), and [all Florida Division of Library and Information Services Retention Schedules](#). If there is any confusion on posting content, check with the City Clerk or other City of Miami Gardens designated official.

O. CLOUD STORAGE

Vendors supplying third party storage services to the City of Miami Gardens must adhere to all of Florida Division of Library and Information Services Retention Schedules and other state and federal laws. Additionally, Florida third party vendors (cloud) may also be required to produce City of Miami Gardens business related data in a civil or criminal case or internal investigation under the Electronic Communications Privacy Act 1986, 18 U.S.C. § 2510-22.

IV. PROCEDURE FOR DEVELOPING A SOCIAL MEDIA PAGE

Departments wishing to establish a presence in social media must obtain approval from the City Manager or other authorized City of Miami Gardens official and follow all City of Miami Gardens procedures.

V. POLICY AFFIRMATION

This Policy is effective (month) XX, 2015.

ACKNOWLEDGEMENT OF RECEIPT AND UNDERSTANDING OF THE POLICY

Upon the signing of this policy, the employee or other person signing this social media policy affirms that the City of Miami Gardens Social Media Policy was written in a clear and understandable manner. The employee or other person signing this social media policy agrees that any question on this social media policy will be put in writing to the appropriate City of Miami Gardens official within thirty (30) days of receiving the social media policy for review. All employees or others signing this social media policy affirm that they were given the reasonable opportunity to clarify any questions about the guidelines and risks stated in the City of Miami Gardens Social Media Policy. The person signing this agreement affirms that the City of Miami Gardens did properly write and deliver their social media policy in a clear and reasonable manner.

(Employee Name)

(Date)