

CITY OF SAN JUAN CAPISTRANO

COUNCIL POLICY

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Subject:	Page	Effective Date	Policy Number
CITY USE OF SOCIAL MEDIA	1 of 4	11/14/22	137

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**Background and Purpose**

The City Council, as the legislative body of the City of San Juan Capistrano, hereby adopts the following policy to establish a process for appropriate use of online social media sites for City related communication, business, and marketing, as well as guidelines related to social media commenting. This Policy shall apply to members of the City Council, all City appointed officials, employees, members of City commissions, committees and boards, City contract personnel, City volunteers, and members of the public, as is appropriate.

This City Council Policy shall establish oversight and administration for use of Social Media Platforms to further the communication efforts of the City. This Policy applies to all users and visitors to the City's social media sites.

**Definitions**

For purposes of this policy, the following definitions apply:

“City Manager” shall mean the City Manager of the City of San Juan Capistrano, or their designee(s).

“City Manager Weekly Update” shall be defined as the periodic electronic publication distributed by the City Manager.

“City Official” shall mean any elected or appointed City Councilmember/ Board Director or commissioner sitting on a legislative body of the City.

“City Social Media Platform” shall mean any Social Media Platform that the City establishes, manages, maintains, updates, or causes to be established, managed, maintained, or updated on behalf of the City, to serve the public, regardless of whether or not the City owns the servers, equipment, networks or software platforms on which such platforms reside. For the purpose of this policy, City Social Media Platform refers only to Facebook.

“City-Sponsored/City-Endorsed Programs, Services, or Events” shall mean any program, service, or event that is developed, implemented, and/or funded (including by in-kind materials and services) partially or in its entirety by the City. Additionally, the City may choose to post content from organizations with which the City has an established formal relationship.

CITY OF SAN JUAN CAPISTRANO

COUNCIL POLICY

---

Subject:	Page	Effective Date	Policy Number
CITY USE OF SOCIAL MEDIA	2 of 4	11/14/22	137

---

“Content” shall mean any information, data, document, text, music, audio, photographs, graphics, videos, messages or other material uploaded and/or posted on a City Social Media Platform.

“Designated City Staff” shall mean any person designated by the City Manager who represents the City of San Juan Capistrano and establishes, manages, updates, and/or maintains a Social Media Platform.

“Service Provider” shall mean any person or entity that owns, operates, or maintains a Social Media Platform.

“Social Media Platform” shall mean any internet-based websites, mobile applications, blogs, wiki pages, user-generated video and audio sites, and any other online social network for the purposes of disseminating information.

“User” shall mean any member of the public accessing a City Social Media Platform.

**General Guidelines**

1. The City shall only use Facebook as its Social Media Platform.
2. City Content to be posted: articles from the City Manager Weekly Updates will periodically be posted on a timeline established by the City Manager; additional emergency and or timely content of community wide interest may also be posted as determined by the City Manager.
3. The City’s website ([sanjuancapistrano.org](http://sanjuancapistrano.org)), or any successor website, will remain the City’s primary and predominant form of internet communication.
  - A. Wherever possible, City Social Media Platform (i.e. Facebook page) will link back to the City website for additional information, forms, documents, online services or additional content necessary to communicate with or conduct business with the City.
  - B. Where appropriate, content posted to City Social Media Platforms will also be available on the City’s official website.
4. No City Department or Division may establish its own City Social Media Platform.

CITY OF SAN JUAN CAPISTRANO

COUNCIL POLICY

---

Subject:	Page	Effective Date	Policy Number
CITY USE OF SOCIAL MEDIA	3 of 4	11/14/22	137

---

5. Any Content posted on any City Social Media Platform shall be consistent with the current communications efforts, goals and initiatives of the City, as determined by the City Manager.
  - A. All content posted by Designated Staff shall be preapproved by the City Manager.
  - B. Any Designated City Staff who post Content on the City's Social Media Platform shall not express their own personal views or concerns through such content.
6. The City Social Media Platform shall comply with the terms, conditions, privacy policy, and any other usage rules and regulations provided by the Service Provider.
7. The City Social Media Platform shall comply with any style guides, specific usage standards, and any other City branding as determined by the City Manager.
8. The City Social Media Platform shall adhere to applicable federal, state and local laws, regulations and policies, including all applicable City policies and guidelines.
9. The City Manager reserves the right to monitor, update, modify, control, add or remove City Content, and/or temporarily deactivate any City Social Media Platform at any time.
10. The ability to comment will be disabled on posts, video, etc.; however, any visitor to the site may reshare a City post.
11. On every post the City shall provide contact information for members of the public to submit comments or correspondence to the City related to the content posted.
12. All City Officials shall comply with City Council Policy 136, Transparency Laws and Social Media Policy (Attachment 1), when resharing City content on personal social media accounts.
13. The City does not monitor or maintain City Official Social Media accounts or platforms.

CITY OF SAN JUAN CAPISTRANO

COUNCIL POLICY

---

Subject:	Page	Effective Date	Policy Number
CITY USE OF SOCIAL MEDIA	4 of 4	11/14/22	137

---

**Records Management and Privacy**

Content posted on a City social media platform may be subject to disclosure pursuant to the California Public Records Act (Cal. Gov't Code Section 6250 et seq.) and will be retained in accordance with the City's record retention policy.

**ATTACHMENTS:**

Attachment 1: City Council Policy 136 – Transparency Laws and Social Media Policy

CITY OF SAN JUAN CAPISTRANO

COUNCIL POLICY

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Subject:	Page	Effective Date	Policy Number
TRANSPARENCY LAWS AND SOCIAL MEDIA POLICY	1 of 3	2/16/2021	136

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**Background and Purpose**

The City Council, as the legislative body of the City of San Juan Capistrano, hereby adopts the following policy regarding the private use of social media by individual members of the City Council. This policy is adopted, in part, in light of California Assembly Bill No. 992, which authorizes members of a legislative body to use social media to communicate with the public, subject to statutory exceptions.

The City of San Juan Capistrano recognizes that social media has become an integral channel of communication for individual members of the City Council with members of the public. However, such communications must be balanced against legal obligations with respect to transparency in the conduct of the people’s business. For example, the Brown Act requires that legislative bodies of public agencies deliberate and take action openly. (Gov. Code §§ 54950 *et seq.*) Moreover, communications regarding City business on private accounts may be subject to disclosure under the Public Records Act. (Gov. Code §§ 6250 *et seq.*) To that end, the following protocol will be followed.

**Definitions**

For purposes of this policy, the following definitions apply:

“City” shall mean the City of San Juan Capistrano.

“City business” shall mean information relating to the conduct of the public’s business or communications concerning matters within the subject matter of the City’s jurisdiction, including, but not limited to, pending or potential City projects, past or prospective City agenda items, or City budgets or expenditures involving City funds.

“City official” shall mean any elected or appointed City Councilmember/Board Director or commissioner sitting on a legislative body of the City.

“Social media platforms” means an online service that is “open and accessible to the public.” “Open and accessible to the public” means that members of the general public have the ability to access and participate, free of charge, in the social media platform without the approval by the social media platform or a person or entity other than the social media platform, including any forum and chatroom, and cannot be blocked from doing so, except when the internet-based social media platform determines that an individual violated its protocols or rules. Examples of social media platforms include Snapchat, Instagram, Facebook, Twitter, blogs, TikTok and Reddit.

# CITY OF SAN JUAN CAPISTRANO

## COUNCIL POLICY

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Subject:	Page	Effective Date	Policy Number
TRANSPARENCY LAWS AND SOCIAL MEDIA POLICY	2 of 3	2/16/2021	136

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### **Policy/Protocols**

1. Public Records Act: City officials should be aware that their posts, comments, and responses about City business on social media platforms, whether on public or private pages, may be subject to disclosure under the Public Records Act.
2. First Amendment: City officials should also be aware that their private social media accounts may be transformed into public forums where members of the public may have First Amendment rights. In determining whether a private social media page has become a public forum, courts have examined factors including:
  - A. How the public official is referenced on the site (*i.e.*, is he or she referenced as “Mayor” or “Chair”, or simply “Jane Doe”?);
  - B. How the page is titled (*i.e.*, is the account registered as a governmental account or a private account?);
  - C. How the public official “invites” users to use the page (*i.e.*, in cases in which the account was deemed a public one, the public official solicited the public’s opinion on City matters);
  - D. Whether the public official is “transacting” City matters on the site (*i.e.*, posting about matters before the City);
  - E. Whether City employees help maintain and operate the site; and
  - F. Whether the public official uses the site to engage directly with the public (*i.e.*, replying to constituent comments regarding City business).

Whether an account is private or public is fact-specific and depends on the totality of the circumstances. If there are reasons to believe that a City official’s private social media page has turned into a public forum, City officials should refrain from blocking members of the public from the page or deleting comments with which they disagree. It is recommended that City officials include a written policy, clearly visible on the official’s social media platform, establishing guidelines for comments, content, and the right to restrict or remove content deemed inappropriate or in violation of the stated policy.<sup>1</sup>

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<sup>1</sup> Recommendation for City Officials to include a written policy establishing posting guidelines to their individual social media platforms was incorporated into this policy on November 1, 2022.

CITY OF SAN JUAN CAPISTRANO

COUNCIL POLICY

---

Subject:	Page	Effective Date	Policy Number
TRANSPARENCY LAWS AND SOCIAL MEDIA POLICY	3 of 3	2/16/2021	136

---

3. Brown Act: City officials may engage in separate conversations or communicate on social media platforms to answer questions, provide information to the public, solicit information from the public regarding City business, or share posts from the City of San Juan Capistrano Facebook page to a City official's personal social media platform. Pursuant to City Council Policy 137, City Use of Social Media (Attachment 1), the City does not monitor or maintain City official social media accounts or platforms.<sup>2</sup>

4. However, a City official may not do either of the following on a social media platform:

- A. Discussion by a majority: Discuss City business with a majority of members of the same legislative body. That includes communicating, posting, sharing, commenting, or using digital icons (*i.e.*, a thumbs up or an emoji); and
- B. Direct Responses: Respond directly to another member's communication, comment or post if the two are on the same legislative body of the City and the topic concerns City business.

5. Failure of an City official to abide by this policy, following its adoption, may result in one or more of the following:

- Removal from office (for commissioners); or
- Censure (for commissioners or elected officials).

ATTACHMENTS:

Attachment 1: City Council Policy 137 – City Use of Social Media

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<sup>2</sup> Reference to City Council Policy 137 was incorporated into this policy on November 14, 2022.