

MOAB CITY COUNCIL

RESOLUTION NO. 15-2022

DATE: May 10, 2022

A RESOLUTION OF THE MOAB CITY COUNCIL ADOPTING A SOCIAL MEDIA AND WEBSITE POLICY

RECITALS

WHEREAS, Utah Code Ann. Subsection 10-3-717(1) authorizes the City of Moab Council to exercise all administrative powers by resolution, including the adoption of policies to govern the actions of municipal personnel and the use and operation of municipal property; and

WHEREAS, the Political Activities of Public Entities Act (the “Act”), Utah Code Ann. § 20A-11-1201, et seq., prohibits the use of public funds on certain electoral and other matters on a public entity’s website; and

WHEREAS, the Moab City Council intends to adopt a social media policy to establish terms of use for its social media platforms, ensure compliance with the Act, and otherwise ensure that Moab’s social media accounts are used appropriately for governmental purposes and general welfare; and

WHEREAS, the Moab City Council has determined that the social media policy attached to this resolution will serve the best interests of the City of Moab and the public.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Moab City Council that it approves the following as official Moab social media accounts:

1. The City of Moab’s webpage (<https://moabcity.org/>), Facebook page (<https://www.facebook.com/cityofmoab/>), Twitter account (<https://twitter.com/CityofMoab>), Instagram account (<https://instagram.com/moabcity>), and YouTube channel (<https://youtube.com/MoabCityGovernment>).
2. The City of Moab designates the Communications and Engagement Manager to be the moderator and administrator for each of Moab’s official social media platforms until such time as the City Manager designates another moderator or administrator.
3. The City of Moab’s hearing officer is designated as the appeal authority for decisions the moderator and administrator make regarding Moab’s social media accounts pursuant to this social media policy; and
4. The social media policy will be posted to the City of Moab’s website and social media accounts and the City’s elected or appointed officials, personnel, and agents are instructed and authorized to take any necessary steps to implement the policy.

[execution on following page – remainder of this page left blank intentionally]

APPROVED AND ADOPTED in Moab, Utah, this 10th day of May 2022.

By: _____
Joette Langianese, Mayor

ATTEST

By: _____
Sommar Johnson
City of Moab/Recorder

CITY OF MOAB
SOCIAL MEDIA POLICY
Adopted May 10, 2022

SECTION I – DEFINITIONS

The following definitions shall apply for the purposes of this policy:

1. “Appeal authority” means the appeal officer designated by the Council to hear appeals under this policy, provided that the appeal authority may not be the Moderator.
2. “City” or “Moab” means the City of Moab.
3. “City Manager” means the appointed official known as the City Manager of Moab.
4. “Comments or Posts” means any comment, photo, link, or other material posted to a section of a social media account.
5. “Council” means the Moab City Council.
6. “Egregious violation” means a comment made to a social media account that expressly or implicitly threatens the safety of the public or any person.
7. “GRAMA” means the Government Records Access and Management Act, Title 63G, Chapter 2, Utah Code, or the applicable successor statute.
8. “May” means a permissive action.
9. “Mayor” means the Mayor of the City of Moab.
10. “Moderator” means the person the City Manager has authorized to moderate and administer any official Moab social media account.
11. “Official” means the Mayor and Moab City Council members.
12. “Personnel” means:
 - a. Any member of a City of Moab board, commission, or committee;
 - b. Any employee, contractor, or other agent duly authorized to carry out official City of Moab business; or
 - c. Any volunteer engaged in official City of Moab business.
13. “Platforms” means technologies and systems that allow writers and other media producers, readers, and consumers of media to interface more efficiently.
14. “Policy” means this social media policy.

15. “Shall” means an action that is mandatory or required.
16. “Social Media Account” means any platform that enables users to create and share content or to participate in social media, networking, interfacing, or communicating, including social media and social networking services, web feeds, blogs, wikis, photo sharing, podcasting, social bookmarking, mashups, widgets, virtual worlds, and micro-blogs.
17. “Terms” means the terms of use set forth in Section V of this policy.
18. “User” means any person or entity who uses a City of Moab social media account.

SECTION II – PURPOSE

The City of Moab is authorized to use social media accounts at its discretion pursuant to this policy to provide pertinent public information to Moab residents and other interested members of the general public.

SECTION III – SCOPE

1. Applicability: This Policy applies to all circumstances where a social media account is owned, controlled, or otherwise managed by the City of Moab, through its personnel, or any city department, division, committee, commission, or board, including but not limited to any social media account used by any official to conduct City business, even if conducting City business is not the sole purpose of the account.
2. Exclusions: Except as provided in Section V, paragraph 11, this Policy does not apply to purely personal or other social media accounts owned or controlled by:
 - a. City personnel in their personal or private capacity;
 - b. City elected officials in their personal or private capacity, including but not limited to any campaign election or re-election account owned and controlled by a campaign election or re-election committee or person campaigning for public office.

SECTION IV – CITY MANAGER APPROVAL REQUIRED

The City Manager shall first authorize all official Moab social media accounts before the account is created and operated. In authorizing any social media account, the City Manager shall determine how the social media account is to be published and administered, including if public commentary is allowed. The City Manager or Moderator may also close a Moab social media account at any time without notice.

SECTION V – TERMS OF USE

The following terms and time, place, manner restrictions apply to any official Moab social media account if the City Manager has permitted public commentary.

1. General: Moab’s social media accounts are intended to promote open, healthy, and non-abusive public discourse conducive to orderly government.
2. No Discrimination: Moab shall not discriminate based on viewpoint or authorship, even if anonymous, that expresses any opinion about Moab’s official action, policy, custom, or practice. Comments and posts may not be flagged, minimized, or removed, and no user may be blocked, so long as the comment or post complies with the Terms.
3. Acceptance of Terms: Users who access or use an official Moab social media account accept and agree to follow, without limitation:
 - a. The rules of conduct for comments and posts, including time, place, manner restrictions set forth in paragraph 4 of this Article V;
 - b. Any terms of use required by the social media platform provider, over whose terms of use, content, commercial advertisements or other postings Moab has no control; and
 - c. Moab’s right to modify the Terms and this Policy, which changes shall become effective upon their posting to the applicable social media account.
4. Rules of Conduct: Any comment or post shall relate to discussion of Moab programs, services, projects, issues, events, or activities. Neither Moab nor its personnel may edit comments or posts to official Moab social media accounts. However, Moab may withhold or remove comments or posts that do not relate to Moab business or that:
 - a. Promote, foster, or perpetuate discrimination based on race, creed, color, age, religion, gender, marital status, national origin, physical or mental disability, sexual orientation, gender identity, or that otherwise encourage discrimination in violation of applicable laws, regulations, ordinances, or policies;
 - b. Include slanderous or defamatory statements against any person, including but not limited to Moab personnel;
 - c. Threaten, harass, or use obscene, indecent, or profane language or content;
 - d. Include obscene or sexual content, or links to obscene or sexual content, including indecent or pornographic material;
 - e. Solicit commerce or advertisements including promotions or endorsements;
 - f. Promote or condone illegal conduct or activity;
 - g. Promulgate spam that include links to external online sites;

- h. Violate a legal ownership interest of any person, including the improper use of a trademark or copyrighted material;
 - i. Promote, endorse, or oppose the candidacy of any person, petition, or referendum or otherwise violate applicable laws and regulations, including but not limited to the Political Activities of Public Entities Act, Utah Code Ann. § 20A-11-1201, et seq.;
 - j. Include fraudulent, deceptive, or misleading information;
 - k. May compromise the safety or security of the public or public systems;
 - l. Threaten public safety personnel;
 - m. Disclose private, protected, or confidential material as defined by state or federal laws and regulations or Moab ordinance or policy; or
 - n. Include commercial advertisements for any non-governmental purpose.
5. Use of Photographs: Moab shall not post photographs on its social media sites:
- a. For which it does not have the copyright or the owner's permission to use;
 - b. If the photograph involves one minor, prior to permission obtained from the minor's parent or guardian; or
 - c. If the photograph involves multiple children engaged in a public event, unless permission is given as a condition of participation or there is no expectation of privacy.
6. Violations of the Terms: The Moderator shall comply with the following when withholding or removing comments or posts that violate the Terms:
- a. When a user has violated the Terms, the Moderator shall contact the social media user through direct messaging or other available means, describe the violation, and request voluntary removal or edit of the comment or post.
 - b. If the user fails to voluntarily remove or edit the comment or post, the Moderator may minimize or withhold the comment or post.
 - c. Before withholding or removing a comment or post, a copy shall be retained (e.g., through a screen shot, etc.) by the Moderator.
 - d. If a comment or post is withheld or removed, the Moderator shall notify the user through a direct message or other available means that includes (i) a copy of the comment or post in question, (ii) an explanation as to why the comment or post

violates this Policy, (iii) a statement that voluntary removal or edit was requested; and (iv) an explanation that the user may appeal the Moderator's decision pursuant to paragraph (9) of this Article V, including the appeal authority's email address.

7. Blocking and Reinstating Users:

- a. If the Moderator determines the user has violated the Terms on three (3) separate occasions, the Moderator may block the user from making public comments or posts on all applicable Moab social media accounts by notifying the user through direct message or other available means that:
 - i. The user is blocked pursuant to this Policy, including an explanation why and specific references to the user's applicable prior violations; and
 - ii. The user may appeal Moab's decision to block the user by sending an email within five business days to the appeal authority, explaining in reasonable detail why the user contends the decision is improper; and
 - iii. The appeal authority's email address.
 - b. The user who has been blocked may submit a written request to the Moderator requesting reinstatement after a period of one year has expired from the date the user was blocked or, if appealed, the date the decision to block the user was upheld. The Moderator may approve the request if (i) the Moderator has reason to believe the user shall abide by the Terms, and (ii) the user signs a written statement (a) agreeing to abide by the Terms and (b) acknowledging that subsequent violations of the Terms could result in a permanent ban that prohibits the user from participating at any future time in applicable Moab social media accounts.
 - c. If the Moderator denies the user's request, the Moderator shall provide a written explanation for the basis of the denial. A user may appeal a denial to the appeal authority pursuant to the process in paragraph 7(a)(ii).
 - d. If a user is reinstated under paragraph 7(b) and is subsequently found to have violated the Terms, even if on one occurrence, the Moderator shall block the user from all applicable social media accounts. The Moderator shall comply with the notice requirements of paragraph 6(a) and appeal rights under paragraph 7(c) of pursuant to the time restrictions and process set forth in paragraph 7(a)(ii). A user blocked under this paragraph 7(d) may request reinstatement after a period of three years following the date the user was blocked or, if appealed, the date the action was upheld.
8. Egregious Violations: The Moderator may immediately remove any comment or post that constitutes an Egregious Violation and may, in the Moderator's discretion, immediately block the user from any future comments or posts for such an egregious violation, pursuant to paragraph 7(a). A user blocked for an Egregious Violation may request reinstatement

pursuant to paragraph 7 (b) and may appeal the denial of a request for reinstatement pursuant to paragraph 7 (c).

9. Appeals:

- a. If a user exercises the user's right to appeal pursuant to paragraphs 7 (a), (b), or (d), the appeal authority's review shall be limited to the user's comments or actions in question, the Moderator's decision, the applicable terms violated, and the user's appeal, provided that the appeal authority may ask the Moderator to prepare a response directly to the user's appeal.
- b. The user filing an appeal bears the burden of proof and shall show by a preponderance of the evidence that the Moderator's decision is arbitrary, capricious, or unlawful.
- c. If the appeal authority does not uphold the Moderator's actions, the appeal authority may order that the pertinent comment or post be restored to public view or that user be reinstated.
- d. The appeal authority shall issue a written decision and notify the user of the decision via email as soon as is reasonably practicable with findings and conclusions regarding the grant or denial of the appeal.
- e. Any decision by the appeal authority shall constitute a final agency action that may be appealed to the district court pursuant to applicable Utah law.

10. Posting of Policy: All sections of Moab's social media accounts that allow comments or posts shall include a link to this Policy and a link to the Moab website for original content, forms, documents, and other information.

11. Social Media Use by Personnel: Moab personnel should not use personal social network accounts, user IDs, or email accounts when commenting in their official capacity on Moab social media accounts or when otherwise conducting official Moab business on non-Moab social media accounts. Any personnel representing Moab on any social media account shall conduct themselves at all times as a representative of Moab and in a manner that is professional, exhibits proper decorum, complies with the Terms, and is conducive to orderly government. Conversely, Moab personnel should not use their Moab user IDs or Moab email accounts when acting in their personal capacity on non-Moab social media accounts or otherwise conducting personal business.

SECTION VI –GRAMA

1. Public Records: Comments posted to Moab's social media accounts are considered public records subject to public disclosure under GRAMA to the extent they do not contain information that discloses private, protected, or confidential material or information.

2. Retention: Moab shall ensure that social media account records are properly retained and classified pursuant to GRAMA and any other applicable laws, regulations, or policies. Any comments or posts that are removed and information regarding blocked users shall be considered public records and shall be preserved pursuant to GRAMA.
3. Moderator Responsibilities: Any Moderator who removes a comment or post or blocks a user's access shall preserve records of the removal or blocked user for any applicable retention period in a format (e.g., a screen shot) that preserves the integrity of the original record and is easily accessible.
4. Comments Not Considered GRAMA Request. A comment or post requesting a public record may not be considered a records request under GRAMA.

SECTION VII – SECURITY

Moab shall take all reasonable steps to ensure that its social media accounts are secure from accidental or intentional attacks. Passwords should be adequately complex to prevent cyberattacks and should not be sent through email. If a cyberattack is suspected for a social media account, the Moderator shall immediately notify the Council and all applicable personnel.

SECTION VIII – ENFORCEMENT

Any Moab personnel found to have knowingly violated this Policy may be subject to disciplinary action pursuant to all applicable laws, regulations, ordinances, and policies.

SECTION IX – DISCLAIMERS

Moderators shall post in a prominent location on all Moab social media accounts a link to this Policy and the following disclaimers:

1. Comments are Public Records: Comments posted to Moab's social media accounts are considered public records and may be subject to public disclosure under GRAMA.
2. Opinions Expressed Are Not Necessarily Those of Moab: Any comment posted by users on Moab's social media accounts is the opinion of the user and does not necessarily reflect the opinion or policy of Moab or its elected officials, personnel, agents, commissions, boards, or committees.
3. No Guarantee of Accurateness: Moab does not guarantee the completeness or accuracy of any information posted on its social media accounts.
4. No Liability: Neither Moab nor its personnel are liable for any injury or damages resulting from viewing, distributing, or copying materials posted to Moab's social media accounts, including without limitation, liability for indirect, special, incidental, or consequential damages.
5. No Legal Notice: Any comment made to Moab's social media accounts does not constitute legal notice or official notice or comment by Moab or its personnel and shall not be

regarded as a request for Moab to provide service or take any action. If a dangerous condition exists, users are advised to contact the police or fire departments, the applicable public utility, or other relevant department or personnel.

6. No Response Required: Any comment posted to Moab’s social media accounts does not require a response from Moab or its personnel.
7. Outside Links: Moab’s social media accounts may contain links to websites and other accounts that Moab and its personnel do not own or control. Moab is not responsible for any content that appears on those websites or accounts and provides links to those websites and accounts for convenience only.
8. Compliance with Terms Required: Any user shall comply with this Policy, including the Terms, as an express condition of participation in Moab’s social media accounts. Moab reserves the right to withhold, remove, mute, or delete information posted by a user that violates the Terms. Repeated or egregious violations of Moab’s social media policy may result in denial of access to all applicable Moab social media accounts. Any threats to public safety or persons shall be immediately removed and reported to the applicable public safety authorities.

SECTION X – MOAB LOGO

1. Official Use of Logo for External Communications: To the extent possible, the Moab logo may be used on all official Moab external communications, including letters, newsletters, press releases, invitations, flyers, posters, signage, websites, social media pages, and any item requiring a symbol of identity.
2. Use of Logo for Private Purposes: The Moab logo may not be used by any Moab personnel for personal communications or uses, including personal social media accounts.
3. Use of Logo by Outside Entities: The City of Moab logo may not be used by any outside entity without the City Manager’s prior written consent.

SECTION XI – EDUCATION

The Communications and Engagement Manager and/or the Moab City Manager shall ensure that those personnel that work with social media understand this Policy. The Moab City Manager may delegate to others the responsibility of training personnel on this Policy.