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MEMORANDUM

To: Municipal Officials

From: Abigail Friedman, Director, VLCT Municipal Assistance Center
Jim Barlow, Senior Staff Attorney
Garrett Baxter, Staff Attorney

Date: June 15, 2011

RE: Model Social Media Policy

Introduction

The term “social media” refers to online applications and mobile-based tools that facilitate the sharing of information, interactivity, and communication amongst individuals, groups, organizations, and the government. The seemingly ubiquitous social media environment has changed the way towns around the country deliver government services and communicate and connect with their citizens. As reliance upon social media becomes more pervasive and people become increasingly accustomed to the nearly instantaneous exchange of and access to information, we expect that more of Vermont’s towns will use this tool to promote upcoming events, meetings and deadlines, communicate public safety concerns, market their communities, share news and information, and encourage and facilitate public participation and feedback.

Despite this pressure, the benefits to be gained from social media must still be weighed against the potential risks. Keep in mind that social media will not substitute the need for towns to fulfill their statutory duties and responsibilities. At best, social media is another component of a town’s marketing, customer service, and public outreach. For some towns, balancing the benefits of social media with its associated risks may result in the realization that a traditional website will satisfy the same goals and objectives. Before adopting this policy, towns may find it helpful to first consider the following:

- *What do you want to accomplish?*
- *Is social media the appropriate tool to accomplish your goals?*
- *What are the benefits of social media and what are the risks of liability exposure?*
- *Who will be responsible for account/content management, administration and training?*
- *Does your town have the resources to implement this policy and use social media effectively?*
- *What are the costs associated with utilizing social media?*
- *Who will answer these questions?*

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VLCT Health Trust, Inc.

VLCT Municipal Assistance
Center

VLCT Property and Casualty
Intermunicipal Fund, Inc.

VLCT Unemployment
Insurance Trust, Inc.

The following social media policy addresses several common risks and administrative concerns that Vermont towns are likely to face when utilizing social media. Because no policy can anticipate every possible issue of potential liability exposure in this ill-defined and constantly evolving legal landscape, town managers, administrators and selectboards will need to periodically review and update this policy. VLCT will continue to review developments in this area and revise and update this policy as needed and post the most recent version on our website. This policy should also be reviewed to ensure that it is consistent with any other existing town policies, job descriptions, employment manuals, and labor contracts.

This model policy has been developed for illustrative purposes only. VLCT makes no express or implied endorsement or recommendation of any policy, or any express or implied guarantee of legal enforceability or legal compliance. Further, VLCT does not represent that any policy is appropriate for any particular municipality. Your legal counsel should review any proposed social media policy before adoption.

**Social Media Policy
Town of _____, Vermont**

Section 1: Title and Authority

This policy shall be known as the Town of _____ social media policy. It has been adopted by the Town of _____ selectboard pursuant to 24 V.S.A. §§ 1121, 1122, and 872.

The selectboard reserves the right to amend any of the provisions of this social media policy for any reason and at any time, with or without notice.

This social media policy will be administered by the *[Town Manager/Selectboard]* or *[his/her/its]* authorized representative.

Section 2: Purpose.

This document outlines the policies and procedures for and town use of social media sites. The purpose of this policy is to provide standards and procedures for the appropriate use of social media when conducting town business. While this policy generally applies to the most popular sites, such as Facebook, YouTube and Twitter, it is acknowledged that social media is an evolving communications tool and that new resources may become available over time. The town may utilize social media and social media sites to communicate information related to the business of the town directly to the public as well as to provide members of the public the opportunity to comment on or participate in discussions concerning town business, including but not limited to operations and services provided by the town. The town encourages the use of social media to further the goals of the town, the missions of its departments and public bodies, and to contribute to the overall vibrancy of its community and degree of participation by its citizenry, where appropriate.

This policy gives direction to town employees, elected officials, volunteers, appointees, public bodies and other authorized affiliated organizations that utilize town's electronic/computer resources to access social media websites and engage in social networking for town purposes. The town has an overriding interest and expectation in deciding what is published on behalf of the town through social media and in establishing guidelines for the use of town social media by town officials and the general public.

Section 3: Definitions:

Comment means a statement or response submitted by a town official or member of the public to the town for posting on the town's social media website.

Designated Agent means an individual designated by the town selectboard to receive and respond to notifications of claimed copyright infringement. Once named, the town must file a "designation of agent" form with the United States Copyright Office.

Social Media means the various forms of information-sharing technology to create web content and dialogue around a specific issue or area of interest. Examples of social media applications include but are not limited to Facebook, MySpace, Google and Yahoo Groups, Wikipedia, YouTube, Flickr, Twitter, LinkedIn, and news media comment-sharing/blogging.

Town Electronic Equipment means all town electronic equipment including but not limited to computers, cell phones, smart phones, pagers and any other town equipment that may be utilized to send or receive electronic communications.

Town Official means employees of the town, public officers (whether elected or appointed) and town volunteers.

Town Social Media Site means the official social media site of the town.

Town Social Networking Moderator means an individual designated by the town selectboard to monitor, manage and oversee social media content.

Visitor means a member of the general public who accesses town social media sites.

Section 4: Conduct of Town Officials

Those designated and authorized to utilize town social media sites do so with the understanding that they are representing the town via social media outlets and must conduct themselves at all times as representatives of the town. Use of town social media sites shall comply with this policy, the town's personnel and any other relevant policies, charter provisions, rules and regulations of the town. This includes any usage of town social media sites from outside of the workplace.

Employees found in violation of this policy may be subject to disciplinary action, up to and including termination of employment in compliance with the town's personnel policy, employment contract, or collective bargaining agreement as appropriate. Appointees and volunteers found in violation of this policy may be subject to removal from their respected public

posts. Elected officials found in violation of this policy may be subject to private or public admonishment and/or may be asked to resign their office.

When a town official responds to a comment in his/her capacity as a town official, the official's name and title should be made available.

Information posted to town social media sites is public information, and there should be no expectation of privacy in regards to the information posted on town social media outlets. Town officials are expressly prohibited from disclosing any information via social media posts that may be confidential.

Town officials are discouraged from using personal accounts to comment on or post information to town social media sites, and/or posting information regarding official town business on other social media sites. All social media site comments and posts by town officials are subject to Vermont's Public Records Law, Open Meetings Law, and all other applicable laws, rules, policies, charter provisions and regulations.

Town officials should have no expectation of privacy regarding anything created, sent or received on the town's electronic equipment. The town may monitor any and all transactions, communications and transmissions to ensure compliance with this policy and to evaluate the use of its equipment.

It is the responsibility of authorized town officials to ensure that information communicated by means of social media is accurate and up-to-date.

The Town Social Networking Moderator will monitor the content posted by town officials on each of the town's social media sites to ensure it complies with this policy for appropriate use, messaging and branding, consistent with the goals of the town.

Authorized town officials must be provided with a copy of this policy and sign the Acknowledgement of Official Use by Authorized Town Officials (see Addendum A) prior to utilizing town social media.

Section 5: Comments

For purposes of this policy, town social media falls into two distinct categories:

1. **The Town Government Speech Site** does not allow for any public comments whatsoever. It is reserved for town government to engage in its own expressive conduct to promote its own message. Examples of this type of site include the town's official website and social media sites where public comment has not been enabled.
2. **Limited Public Social Media Forums** are town social media sites where public comment has been enabled to allow for discussion on specific topics as signified by postings by authorized town officials or consistent with the purposes of this policy. Submission of comments by members of the public constitutes participation in a limited public forum.

Users and visitors to town social media sites shall be notified that the intended purpose of the site is to serve as a mechanism for communication between authorized town officials and members of the public.

A comment posted by a member of the public on any town social media site is the opinion of the commentator or poster only, and publication of a comment does not imply endorsement of, or agreement by, the town, nor do such comments necessarily reflect the opinions or policies of the town.

Comments by authorized town officials shall be allowed on town social media sites only when consistent with the provisions of this policy. Comments by the general public shall be allowed on limited public social media forums only when consistent with the provisions of this policy.

Comments containing any of the following inappropriate forms of content shall not be permitted on any type of town social media site and are subject to editing, removal or restriction, in whole or in part, by the Town Social Networking Moderator:

- Comments not topically related to the particular social medium thread or topic or article being commented upon;
- Comments in support of or opposition to political campaigns or ballot measures of any kind;
- Profane, obscene, or sexual language or content or links to such language or content;
- 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;
- Solicitations of commerce, including but not limited to advertising of any business or product for sale;
- Conduct or encouragement of illegal activity;
- Information that may tend to compromise the safety or security of the public or public systems;
- Defamatory or personal attacks;
- Threats to any person or organization;
- Conduct that violates any federal, state, or local law; or
- Content that violates a legal ownership interest of any other party.

If comments are related to the topic at hand, then the content must be allowed to remain, regardless of whether it is favorable or unfavorable to the town.

The town reserves the right to deny any individual who violates the town social media policy access to posting to town social media sites, at any time and without prior notice.

The town reserves the right to restrict or remove any content that is deemed in violation of this social media policy or any applicable law. Content submitted for posting that is deemed not suitable for posting by the Town Social Networking Moderator because it is not topically related to the particular subject being commented upon, or is otherwise deemed prohibited content based on the criteria set forth in this policy, must be retained in accordance with the relevant records retention schedule. Such content shall be accompanied by a description of the reason it is deemed not suitable for posting along with the time, date, and identity of the poster when available.

All town social media authors and public commenters shall be clearly identified. Anonymous posting shall not be allowed.

These conduct guidelines governing comment on town social media sites shall be displayed on all limited town social medium forums or made available by hyperlink from the town's official website.

Section 6: Account Management

The establishment and use by town officials of town social media sites on behalf of the town is subject to approval by the town *[Town Manager/Selectboard]* or *[his/her/its]* authorized representative.

The *[Town Manager/Selectboard]* or *[his/her/its]* authorized representative will review all requests to contribute to town social media sites and has the sole authority to authorize their use and establish and/or terminate town social media accounts of town officials and pages.

There should be an authorization process for employees wishing to create an account for the benefit of the town, with the town *[Town Manager/Selectboard]* or *[his/her/its]* authorized representative as the authority to oversee and confirm decisions. In this role, the *[Town Manager/Selectboard]* or *[his/her/its]* authorized representative will evaluate all requests for usage, verify staff authorized to use town social media tools, and confirm completion of online training for social media if deemed necessary. The town *[Town Manager/Selectboard]* or *[his/her/its]* authorized representative will also be responsible for maintaining a list of all social networking application domain names in use, the names of all town administrators of these accounts, as well as the associated user identifications and active passwords.

All town social media sites shall be established by a duly designated town Information Technology (IT) officer with the approval and under the direction of the *[Town Manager/Selectboard]* or *[his/her/its]*, and shall be published using approved town social networking platform and tools and administered by the town IT officer.

Section 7: Content Management

The *[Town Manager/Selectboard]* or *[his/her/its]* authorized representative shall designate a Town Social Networking Moderator to monitor, manage, and oversee all content on each social media site to ensure adherence to this policy, including appropriate use, messaging, and branding that is consistent with the interests, goals, and objectives of the town.

The Town Social Networking Moderator retains the sole authority to remove information from town social media outlets.

Designated department heads and/or other authorized town officials will be responsible for the content and upkeep of any town social media sites they may create.

The town does not guarantee the authenticity, accuracy, appropriateness, or security of posted hyperlinks or websites or content linked thereto.

Wherever possible, content posted to the town's social media sites will also be available on the town's official website. Town social media sites should complement rather than replace the

town's existing web resources. Content posted on the town's social media sites should contain links directing users to the town's official website for additional information, forms, documents, or online services necessary to conduct business with the town.

All town social media sites shall clearly indicate that they are maintained by the town and shall prominently display necessary town contact information. All town social media sites shall include the prominent placement of the official town seal, if available, along with the following notification:

This is the official (Facebook, Twitter, YouTube, etc.) page for the Town of _____, Vermont. If you are looking for more information about the Town of _____, Vermont please visit [insert URL address of town website]. The purpose of the town page is to provide general public information only. Should you require a response from the town or wish to request town services, you must go to [insert URL address of town website], if appropriate, or contact the town at [insert town office phone number and/or email address].

Section 8: Public User Agreement

A copy of this policy shall be accessible from either the town's official website or the town's social media site. The general public shall be informed that agreement to the terms of this policy is a prerequisite to participating in the town's limited public social media forums.

Section 9: Copyright Infringement Notification

The town complies with the provisions of the Digital Millennium Copyright Act of 1998 (DMCA). Federal law (U.S. Copyright Act, Title 17 of the US Code, and, more recently, the Digital Millennium Copyright Act, 105 PL 304) makes it illegal to download, upload, or distribute in any fashion copyrighted material in any form without permission or a license to do so from the copyright holder.

The town respects the intellectual property of others and requests users of the town's social media sites to do the same. In accordance with the DMCA and other applicable law, the town has adopted a policy of terminating, in appropriate circumstances and at its sole discretion, users, subscribers, or account holders who are deemed to be repeat copyright infringers. The town may also in its sole discretion limit access to its town social media sites and/or terminate the accounts of any user who infringes any intellectual property rights of others, whether or not there is any repeat infringement.

The following notification shall be made accessible on all town social media sites and on the town's official website:

If you believe that any material on the town's official website or town social media site infringes on any copyright which you own or control, or that any link on the town's social media sites directs users to another website that contains material that infringes on any copyright that you own or control, you may file a notification of such infringement with the town's Designated Agent as set forth below. Notifications of claimed copyright infringement must be sent to the Town of _____, Vermont's Designated Agent, for notice of claims of copyright

infringement. The Town of _____, Vermont's Designated Agent may be reached as follows:

Designated Agent:

Address of Designated Agent:

Telephone Number of Designated Agent:

Email Address of Designated Agent:

Section 10: Public Records Law – Compliance

Town social media sites and their related social media content are subject to Vermont's Access to Public Records Law. Information that is produced or acquired in the course of town business, including comments posted to town social media sites, may be a public record – thus, there should be no expectation of privacy in regards to the information posted on these social media outlets.

All files, documents, data, and other electronic messages created, received, or stored on the town's computer system are open to review and regulation by the town and may be subject to the provisions of Vermont's Public Records Law. A public record consists of any written or recorded information, regardless of physical form or characteristics, which is produced or acquired in the course of town business. Public records, regardless of format, are available for inspection and copying unless there is a specific statute exempting the record from public disclosure. Those records exempt from public inspection and copying are set out at 1 V.S.A. § 317(c).

The town's official website and town social media sites shall clearly indicate that any articles and any other content or comments posted or submitted for posting in whatever format are subject to public disclosure. Content related to town business shall be maintained in an accessible format so that it can be produced in response to a public records request. Users shall be notified that public disclosure requests must be directed to the proper custodian of public records. The name, title, and contact information for the proper custodian of public records shall be posted on each town social media site.

Section 11: Public Records Law – Retention

Relevant town records retention schedules apply to content on the town's official website as well as to town social media sites. Content posted or submitted for posting shall be retained pursuant to Vermont's Public Records Law in its standard format and in accordance with applicable disposition orders and retention schedules as established by the Vermont State Archivist.

Section 12: Open Meeting Law

Vermont's Open Meeting Law defines a public meeting as a gathering of a quorum of the members of a public body for the purpose of discussing the business of the public body or for the purpose of taking action. All meetings of a public body are to be open to the public at all times unless otherwise exempted. Members (elected or appointed) of any town public body should refrain from using town social media sites to discuss the business of the public body or taking action by the public body in violation of Vermont's Open Meeting Law. Furthermore, members

of public bodies should refrain from commenting on or responding to inquiries related to quasi-judicial matters within the subject matter jurisdiction of their respective public bodies.

Public boards and committees may utilize town social media for gathering of public input and fostering of public discussion related to the role with which it has been charged by statute or the town selectboard, provided that the use is authorized in accordance with and conforms to this policy.

Information posted by the town on its social media sites will supplement and not replace required notices and standard methods of providing warnings, postings, and notifications required to be made with regard to public meetings and hearings under Vermont law.

Section 13: Legal

All comments posted to any town social media site are bound by that site’s applicable statement of rights and responsibilities. The town reserves the right to report any violation of that site’s statement of rights and responsibilities to the site provider with the intent of the provider taking appropriate and reasonable responsive action.

ADOPTED this ____ day of _____, 20__.

SIGNATURES of TOWN OF _____, VERMONT SELECTBOARD:

Addendum A: Acknowledgement of Official Use by Authorized Town Officials

I, _____, acknowledge that:

- A. I received a copy of the Town of _____, Vermont's social media policy on _____;
Date
- B. I have been given an opportunity to ask questions about said policy and I have been provided with satisfactory information in response to my questions;
- C. I understand the language used in this policy;
- D. I acknowledge that the town reserves the right to add, amend or discontinue any of the provisions of this policy for any reason or none at all, in whole or in part, at any time, with or without notice;
- F. I acknowledge that I understand this policy and I agree that I will comply with all of its provisions.

Town Official's Signature

Date