APPENDIX H
SOCIAL MEDIA

Colorado towns and cities regularly utilize technology to facilitate communication with the public, and technology changes rapidly. Keeping up-to-date on new technology and how best to meet our legal recordkeeping obligations for this communication can be difficult.

Social media content is one of the latest recordkeeping challenges. Social media refers to any number of platforms where an account holder can post written messages, images, audio, video or multimedia files with the intention of sharing that information with others. Examples include Facebook, Instagram, Twitter, Flickr, Google+, and others.

Much of the challenge has to do with the shared control of the information being posted to the social media platform. Prior to social media, the municipality had sole control over the communication tools it created such as news releases, newsletters, bulletins, etc. Many of these tools continue to be used, and the retention of the information is straightforward and typically retained in paper or electronic format for the duration of its legal retention period. The format then evolved to web sites, but control of the web site content still resided with the municipality (or through contract) and the content could be preserved as needed by municipal staff or through contract terms with a web site vendor. The progression to social media is different in that it is almost always controlled by a non-contracted third party entity. These entities are not subject to regulations that cover government agencies and, therefore, offer no guarantees that the municipality will be able to retain control of or capture all content posted. Lack of control may be the reason some municipalities choose to avoid social media. For those that do utilize social media, it will be helpful to think through a few issues.

1. <u>Are social media posts considered public records?</u> There is not a definitive answer and it depends on how social media is utilized by the municipality. A discussion with a records management perspective and a legal perspective is suggested. Generally, if the posts contain substantive communication or unique/original announcements, notices, or communication about particular issues or initiatives, the posts should be considered records. If the posts are duplicates of documentation already retained by the municipality, the posts are likely not records that need to be captured and retained.

2. <u>If my municipality decides social media posts are records, what is the retention period?</u> The retention period is based on the content of the posts and not the format. Some posts may be considered a news release, meeting notice, or other informational notifications. These are subject to the same retention requirements as a paper or electronic version.

3. <u>Are public comments records too?</u> If the municipality interacts with the public via social media then, yes, it is a record and should follow the proper retention periods. Some social media applications will allow users to disable public comments. Using these features can help with volume and retention issues.

4. <u>How does a municipality capture and retain content from social media accounts?</u>
Utilizing third party software that is designed for automatically capturing and
retaining social media posts is common.

5. <u>Do I need a social media policy?</u> If your municipality considers posts as records, a
policy is suggested. Elements to consider include various definitions, roles and
responsibilities, guidelines and conditions for usage, approval of new accounts,
security, retention, archiving standards, and deletions. Gathering policies from other
municipalities will provide a drafting framework to customize a policy for your town or
city.

6. <u>If I decide to purchase a software product to capture and retain social media posts and
comments, what should I consider?</u> A records perspective in selecting a product is
important. Many vendors have software products with impressive functionality, but
not all understand records management principles. Here are some vendor interview
questions:
   a. Why <u>should</u> we archive social media posts and comments?
   b. What are the risks if we do <u>not</u> archive?
   c. How labor intensive is the archiving process?
   d. Can we choose to archive only selected social media posts, or do we have to
   archive them all?
   e. Describe where the archive will be located in the cloud.
   f. How does the system handle retention and destruction of social media posts
   and comments we retain and ultimately destroy as records?
   g. What is the recommended retention period for social media posts and
   comments?
   h. What happens if we stop doing business with the vendor? Can we migrate the
   archive somewhere else? Will it remain accessible to the City?
   i. Does the vendor have a disaster recovery plan (such as off-site storage of
   backups) to ensure the records will be there when needed?
   j. What kind of security is in place? What are the hacking risks?
   k. Describe the search mechanisms available to us in e-discovery?
   l. Is there a cost to retrieve archived social media posts and comments?
   m. How will we provide specific posts for legal proceedings? What is the cost?
   n. Will we be able to place a legal hold on destruction?
   o. What is the cost? How is the cost determined (i.e., per license, per volume, or
   what)? Does the cost go up as we use social media more?