

ORDINANCE NO. 20141120-015

AN ORDINANCE REPEALING AND REPLACING CHAPTER 2-11 OF THE CITY CODE RELATING TO RECORDS MANAGEMENT.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. City Code Chapter 2-11(*Records Management*) is repealed and replaced with a new Chapter 2-11 to read:

CHAPTER 2-11. RECORDS MANAGEMENT.

§ 2-11-1 DEFINITIONS.

- (A) Except as provided in subsection (B), words and phrases in this chapter have the same meaning they have in the Local Government Records Act.
- (B) In this chapter:
- (1) CITY ARCHIVIST means the manager of the Austin History Center of the Austin Public Library acting under the direction and supervision of the director of the Library Department, or the equivalent position as may be established in the Library Department.
 - (2) COMMISSION means director and librarian of the Texas State Library and Archives Commission.
 - (3) DEPARTMENT means a City department, or the functional equivalent.
 - (4) DEPARTMENT DIRECTOR means the officer or employee who is in charge of a department.
 - (5) DIGITAL, when used in reference to a record, means the record is maintained in an electronic data format that requires an electronic device to create, store, access, retrieve, or read the record.
 - (6) EMPLOYEE means a person employed by the City.
 - (7) LOCAL GOVERNMENT RECORDS ACT means Title 6 (*Records*), Subtitle C (*Records Provisions Applying to More Than One Type of Local Government*), of the Texas Local Government Code, and includes the rules adopted by the commission under the Local Government Records Act.

- (8) **OFFICIAL** means the mayor, a member of the city council, a municipal court judge (including a substitute judge), and a person appointed by the mayor or the city council to a City board, task force, or other City body.
- (9) **PHYSICAL**, when used in reference to a record, means that the record is maintained in a tangible form, such as paper, photographic film, analog tape, or a similar medium.
- (10) **RECORD** means a local government record of the City, and includes a digital record and a physical record.

§ 2-11-2 PURPOSE; APPLICABILITY; COMPLIANCE.

- (A) This chapter implements the Local Government Records Act.
- (B) This chapter, the records management program, and the records control schedules apply to all records in whatever form the records exist, including all digital records and all physical records.
- (C) This chapter is cumulative of the Local Government Records Act.
- (D) Each City official and City employee shall comply with the records management program adopted under this chapter. The records management program is cumulative of this chapter and the Local Government Records Act.
- (E) A person does not comply with the records management program unless the person complies with this chapter and the Local Government Records Act.

§ 2-11-3 RECORDS MANAGEMENT OFFICER.

- (A) The city clerk is the records management officer under Local Government Code, § 203.025 (*Designation of Records Management Officer*) for the City, and shall:
 - (1) develop, implement, and administer a City-wide records management program that complies with the Local Government Records Act;
 - (2) coordinate, and to the extent practicable, standardize records management practices among departments;
 - (3) serve on each director-level technology governance or oversight committee established by a City department;

- (4) prepare, review, and approve each new and amended records control schedule for each City department, and make necessary changes to the schedules at intervals set by the records management program;
- (5) report annually to the council and the city manager on the implementation of the records management program in each City department;
- (6) report to the city manager noncompliance with the records management program by a department director, City employee, or City contractor;
- (7) report to the council noncompliance with the records management program by a City official;
- (8) appoint a city records manager to implement this chapter, subject to the direction of the city clerk;
- (9) provide storage, retrieval, and destruction services of physical records no longer required to be kept in active office space and transferred to the records center;
- (10) provide support for City-wide document and imaging management systems and services designed to manage digital records;
- (11) establish a micrographics program for the preservation of permanent records not transferred to the Austin History Center;
- (12) provide consulting services and training to departments and employees on the implementation of the records management program, records and information technology requirements, and other subjects related to records and information management; and
- (13) assist department records administrators to identify essential records and establish a disaster recovery plan for records.

(B) Subject to the direction of the city clerk, the city records manager may perform a duty assigned by this chapter to the city clerk.

§ 2-11-4 RECORDS MANAGEMENT COMMITTEE.

(A) The members of the records management committee are:

- (1) the city clerk;
- (2) city manager;

- (3) the city records manager;
- (4) the city archivist;
- (5) the city auditor;
- (6) the city attorney;
- (7) the director of the Human Resources Department;
- (8) the director of the Communications and Technology Management Department;
- (9) the comptroller;
- (10) the purchasing officer;
- (11) a departmental records administrator, appointed by the city manager, from an enterprise-fund department; and
- (12) a departmental records administrator, appointed by the city manager, from a general-fund department appointed by the city manager.

(B) The city clerk is the chair of the records management committee. The city records manager is the secretary of the records management committee.

(C) The records management committee shall:

- (1) assist the city clerk in the development, implementation, and management of the records management program;
- (2) to the extent practicable promote standard records management practices among departments;
- (3) annually review the performance of the program;
- (4) annually review City policies related to compliance with applicable law regarding the creation, storage, retention, destruction, disposition, security, or accessibility of City records;
- (5) adopt necessary changes and improvements to City policies and to the records management program that are not inconsistent with this chapter;
- (6) review each records control schedule submitted by the city clerk;
- (7) recommend to the council amendments to this chapter as required; and

- (8) support and promote the records management program.
- (D) The city clerk shall convene the committee at least twice each fiscal year. Six members of the committee are a quorum. An action of the committee requires a majority vote of the committee members present.
- (E) The records management committee is neither a governing body nor a City board, and is not subject to Chapter 2-1 (*City Boards*).

§ 2-11-5 RECORDS MANAGEMENT PROGRAM.

- (A) The city clerk shall submit the records management program to the city manager for approval. The records management program approved by the city manager is the City's records management program.
- (B) The records management program must:
 - (1) comply with the Local Government Records Act;
 - (2) to the extent practicable, standardize records management practices among City departments;
 - (3) in cooperation with the commission, establish guidelines for the implementation of records control schedules;
 - (4) establish training requirements for department records administrators and department records management team members;
 - (5) establish guidelines for City information technology systems and services to ensure that the systems and services create, store, manage, protect, preserve, dispose of, and provide access to records in compliance with the records management program;
 - (6) establish guidelines for the transfer of records when a function is transferred from one department to another department;
 - (7) establish guidelines for the destruction of records, including the information that must be maintained in a destruction log;
 - (8) establish procedures for the suspension of records destruction as allowed by Section 2-11-10 (*Destruction or Disposition of Records*);
 - (9) improve the efficiency of recordkeeping;
 - (10) enable the city clerk to perform the duties prescribed by this chapter;

- (11) establish guidelines and eligibility criteria for transferring records to microfilm, or to an electronic or digital format, including guidelines for the disposition of records that have been transferred;
- (12) provide adequate protection of the essential records of the City, including a disaster recovery plan for records;
- (13) regulate the operations and use of the records center serving as the depository of inactive records with continuing value to the City, except records that have been transferred to the Austin History Center for preservation as historical records; and
- (14) establish guidelines to ensure the preservation of long-term or permanent physical and digital records of the city.

§ 2-11-6 DUTIES OF A COUNCIL OFFICE.

- (A) A council member shall maintain a record created or received by the council office in compliance with the records management program.
- (B) A council member may designate the city clerk as records administrator for the council member's office.
- (C) Unless the city clerk is the records administrator for a council office, the council member must perform the duties of the records administrator as if the council office were a department, or appoint an employee of the council office to assume those duties.

§ 2-11-7 DUTIES OF DEPARTMENT DIRECTORS.

- (A) Each department director shall cooperate with the city clerk to implement this chapter. A department director may not refuse to comply with the requirements of this chapter based on a City ordinance or policy relating to a duty, recordkeeping requirement, or other responsibility of the departmental director.
- (B) Each department director shall:
 - (1) document the services, programs, and duties that are the responsibilities of the director's department;
 - (2) maintain the department's records in accordance with the records management program;
 - (3) include records and information management requirements in department policies and procedures; and

- (4) ensure that the department's records administrator and records management team have sufficient time and resources to implement the records management program.
- (C) Each department director shall appoint a senior level manager as the department's records administrator to oversee the implementation of the records management program in the department, and shall allocate resources to implement the program in the department. A department director may serve as the department's records administrator. Each department director shall notify the city clerk in writing of the appointment of the department's records administrator.
- (D) Each department director whose department has more than one division or more than one physical location shall ensure that each division and location has an employee responsible for the implementation of the records management program in that division or location. The department director shall notify the city clerk in writing of the appointment of each responsible employee under this subsection.
- (E) A department director is responsible for compliance with this chapter for records created by a City board, commission, task force, or similar entity for which the department provides support.
- (F) A department director, official, or the official or employee in charge of an inter-departmental working group or committee, must consult the city clerk or the city records manager before recommending or implementing a change to records management or information technology that is reasonably likely to affect:
 - (1) compliance with the records management program; or
 - (2) the City's processes or capabilities relating to the creation, storage, retention, destruction, disposition, security, or accessibility of records.

§ 2-11-8 DUTIES OF A DEPARTMENT RECORDS ADMINISTRATOR.

- (A) Each department's records administrator shall:
 - (1) cooperate with the city clerk to implement the records management program in the department;
 - (2) distribute information about the records management program to department employees;

- (3) ensure that the creation, storage, retention, destruction, disposition, security, and accessibility of the department's records are in compliance with the department's records management program;
- (4) implement the department records control schedule to ensure that records are retained for the approved retention period;
- (5) transfer a physical record that is no longer required for the conduct of department business to the records center;
- (6) identify essential records of the department and establish, implement, and maintain a records disaster recovery plan;
- (7) review the department records control schedule at intervals set by the city clerk to determine if the schedule reflects current department practices and complies with the records management program;
- (8) review each new information technology system or system enhancement to ensure that the new system or system enhancement addresses and complies with the records management program;
- (9) assist the city clerk in producing an annual report to the city manager on the implementation of the records management program in the department; and
- (10) notify the city clerk within 24 hours of the discovery of any loss, theft, or damage to a department record.

§ 2-11-9 THE DEPARTMENT RECORDS MANAGEMENT TEAM.

(A) Each department shall have a records management team consisting of:

- (1) the department's records administrator, who is the chair of the team;
- (2) the city clerk's staff assigned to work with the department; and
- (3) for a department that has more than one division or physical location:
 - (a) at least one employee, designated by the director, who is responsible for records management in a division in the department; and
 - (b) at least one employee, designated by the director, who is responsible for records management in a location of the department.

(B) The records management team shall:

- (1) meet at intervals set by the records management program;
- (2) invite to each meeting the city clerk's staff assigned to work with the department;
- (3) review the department records control schedules and records management practices at intervals set by the city clerk to determine if the schedules and practices comply with the records management program, and implement corrective action for program compliance;
- (4) complete reports required by the city clerk; and
- (5) complete training required by the records management program.

§ 2-11-10 RECORDS CONTROL SCHEDULES.

- (A) The city clerk, in cooperation with each department director, shall prepare a records control schedule for each department that lists each record created or received by the department, the retention period for each type of record, and any other information needed to implement the records management program.
- (B) The length of a retention period, or a change in the length of a retention period, shall be determined by the city clerk after consultation with the records management committee. After considering any comments made by the records management committee, the city clerk shall adopt each control schedule and each change to a control schedule.
- (C) The city clerk shall submit a records control schedule that requires commission review to the commission. If the commission does not accept a schedule for filing, the city clerk shall amend the schedule to make it acceptable for filing.
- (D) The city clerk shall maintain an official set of control schedules for the City. The control schedules maintained by the city clerk are the City's official control schedules, with which every department must comply.

§ 2-11-11 DESTRUCTION OR DISPOSITION OF RECORDS.

- (A) When the retention period for a record has expired, the records administrator shall approve the destruction of the record unless:
 - (1) a request for the record under Chapter 552 (*Public Information Act*) of the Government Code is pending;

- (2) the city attorney determines that the subject matter of the record is related to pending or anticipated litigation, or to an ongoing legal matter;
 - (3) the subject matter of the records is related to an ongoing audit, or an ongoing review by a governmental regulatory agency;
 - (4) a department director or records administrator requests the city clerk in writing, and states the reason, that the record be permitted to be retained for an additional period, and the request is approved in writing by the city clerk; or
 - (5) the city archivist determines that the record is of historical value.
- (B) The records administrator of each department shall record the destruction of records carried out under this chapter or another law and maintain a destruction log.
- (C) The city clerk may destroy a record that is obsolete or that is not identified on a records control schedule if:
- (1) the destruction of the record has been approved by the records management committee; and
 - (2) the commission has approved a request for authorization to destroy the record.
- (D) A record approved for destruction under this chapter and state law may be destroyed by:
- (1) the records administrator of the department that has custody of the record; or
 - (2) the city clerk.
- (E) Before an official or employee may destroy the original or source document of a record that has been transferred to microfilm or to an electronic or digital format, the employee or official must obtain written authorization from the city clerk.

§ 2-11-12 RECORDS CENTER.

- (A) The city clerk shall maintain a records center that provides:
- (1) storage of records no longer required to be kept in active office space;

- (2) an information retrieval service for the benefit of City offices; and
 - (3) a method for destruction of a record in storage whose retention period has expired.
- (B) If a department record is no longer required in the conduct of current business the departmental records administrator shall promptly transfer the record to the records center, or if the retention period has expired, destroy the record as provided by this chapter.

§ 2-11-13 MANAGEMENT OF DIGITAL RECORDS.

- (A) The creation, maintenance, preservation, and storage of a digital record, including the conversion of a physical record to a digital record, must comply with the records management program.
- (B) The city clerk shall review a department or inter-departmental plan to acquire or implement an information technology system or service that creates, stores, manages, protects, preserves, destroys, or provides access to digital records. If the system or service is inconsistent with the records management program the city clerk shall report the inconsistency to the appropriate director and the city manager.

§ 2-11-14 RECORDS WITH HISTORICAL VALUE.

- (A) A records administrator, the city archivist, and the city clerk may agree to transfer custody of a record that has historical value to the Austin History Center. If a City record is transferred to the custody of the Austin History Center, ownership of the record remains with the City.
- (B) The Austin History Center is the custodian of a record belonging to a discontinued department that does not have a named successor.
- (C) The director of the Library Department shall establish guidelines for the preservation of records that are of historic value.

§ § 2-11-15 OWNERSHIP OF CITY RECORDS.

- (A) A record is the sole property of the City. An official or employee has no personal property right to a record.
- (B) An official or employee may not:
- (1) destroy, remove, or use a record except in the course of the official's or the employee's official duties; or

- (2) sell, loan, give away, destroy, or otherwise alienate a record from the City's custody except in compliance with this chapter or state or federal law.
- (C) The City may demand and receive from a person a City record in the person's possession, if the removal of the record was not authorized by law.
- (D) A City official or employee shall, at the expiration of the official's or employee's term, appointment, or employment, deliver to the City all records in the official's or employee's possession.
- (E) A record received or created by a City contractor in fulfillment of the contract, except a record specifically relating only to the contractor's internal administration, is the property of the City. The contractor may not dispose of or destroy a record that is City property, and shall:
 - (1) maintain the record with in compliance with this chapter; and
 - (2) deliver the record, in all requested formats and media, along with all finding aids and metadata, to the City at no cost:
 - (a) when requested by a director or an authorized City employee; and
 - (b) when the contract is completed or terminated.

PART 2. This ordinance takes effect on December 1, 2014.

PASSED AND APPROVED

 November 20, 2014

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 Lee Leffingwell
 Mayor

APPROVED: _____
 Karen M. Kennard
 City Attorney

ATTEST: _____
 Jannette S. Goodall
 City Clerk