

ORIGINAL

CITY OF THE COLONY, TEXAS

ORDINANCE NO. 09-1814

AN ORDINANCE OF THE CITY OF THE COLONY, TEXAS, AMENDING OF THE CODE OF ORDINANCES, CHAPTER 2, ARTICLE III, RECORDS MANAGEMENT, BY REPEALING THE SAME IN ITS ENTIRETY AND REPLACING WITH A NEW CHAPTER 2, ARTICLE III, RECORDS MANAGEMENT, TO PROVIDE NEW REGULATIONS FOR THE MANAGEMENT OF OFFICIAL CITY RECORDS; PROVIDING FOR DEFINITIONS; DECLARING CITY RECORDS PUBLIC PROPERTY; PROVIDING A POLICY; ESTABLISHING THE OFFICE OF THE RECORDS MANAGER; PROVIDING FOR THE DUTIES OF THE RECORD MANAGER; PROVIDING DEPARTMENT HEAD RESPONSIBILITIES; PROVIDING THE DUTIES AND RESPONSIBILITIES OF THE RECORD LIAISON OFFICERS; PROVIDING FOR THE DEVELOPMENT, APPROVAL AND THE FILING OF THE RECORD SCHEDULES; PROVIDING FOR THE IMPLEMENTATION OF RECORD CONTROL SCHEDULES AND THE DESTRUCTION OF RECORDS UNDER SUCH SCHEDULE; PROVIDING FOR THE DESTRUCTION OF UNSCHEDULED RECORDS; PROVIDING FOR THE RECORDS CENTER; PROVIDING FOR THE PRESERVATION OF PERMANENT RECORDS; PROVIDING THAT NONCURRENT RECORDS NOT BE FILED IN OFFICE FILES; PROVIDING FOR THE ESTABLISHMENT OF A MICROFILM PROGRAM; PROVIDING FOR THE ELECTRONIC STORAGE OF CITY RECORDS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, State law requires that government offices establish, promote, and support an active and continuing program for the efficient and economical management of all local government records; and

WHEREAS, State law also requires the City to develop policies and procedures for the administration of the records program; and

WHEREAS, State law further provides for the establishment of a records retention period, which shall not be less than the retention period prescribed by state or federal law, regulations or rule of the court; and

WHEREAS, in addition, State law provides for the filing of the schedule with the Texas State Library and Archives Commission, the destruction of the records, and authorization for microfilming, as well as all other aspects of record retention; and

WHEREAS, Chapter 2, Article III of the Code of Ordinances provides for records management within the City but is in need of updating to comply with all requirements of State law; and

WHEREAS, the City Council has discussed and considered such revisions and has determined that it is in the best interest of the City to repeal the current Chapter 2, Article III, Records Management, and replace with a new Chapter 2, Article III, Records Management, to ensure compliance with State law.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS:

SECTION 1. That the Code of Ordinances of the City of The Colony, Texas be, and the same is, hereby amended by repealing Chapter 2, Article III, Records Management, in its entirety and replacing with a new Chapter 2, Article III, Records Management, which shall read as follows:

“Chapter 2

ADMINISTRATION

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ARTICLE III. RECORDS MANAGEMENT

Sec. 2-301. Definitions.

(1) “City records” means records of the city and shall be created, maintained, and disposed of in accordance with the provisions of this article or procedures authorized by it and in no other manner: any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by the city or any of its officers or employees pursuant to law, including an ordinance, or in the transaction of public business.

(2) “Department head” means the director or officer who by ordinance or administrative policy is in charge of an office of the city that creates or receives records.

(3) "Essential record" means any record of the city necessary to the resumption or continuation of its operations in an emergency or disaster, to the re-creation of its legal and financial status, or to the protection and fulfillment of obligations to the people of the state.

(4) "Permanent record" means any record of the city for which the retention period on a records control schedule is given as permanent.

(5) "Records control schedule" means a document prepared by or under the authority of the records management officer listing the records maintained by the city, their retention periods, and other records disposition information that the records management program may require.

(6) "Records management" means the application of management techniques to the creation, use, maintenance, retention, preservation, and disposal of records for the purposes of reducing the costs and improving the efficiency of recordkeeping. The term includes the development of records control schedules, the management of filing and information retrieval systems, the protection of essential and permanent records, the economical and space-effective storage of inactive records, control over the creation and distribution of forms, reports, and correspondence, and the management of microfilming and electronic and other records storage systems.

(7) "Records management officer" means the person designated in Section 2-304 of this ordinance.

(8) "Records management plan" means the plan developed under Section 2-305 of this ordinance.

(9) "Retention period" means the minimum time that must pass after the creation, recording, or receipt of a record, or the fulfillment of certain actions associated with a record, before it is eligible for destruction.

Sec. 2-302. City records declared public property.

(a) City records created or received in the transaction of official business or the creation or maintenance of which were paid for by public funds are declared to be public property and are subject to the provisions of V.T.C.A., Local Government Code § 201.001 et seq., and V.T.C.A., Government Code § 441.151 et seq.

(b) A city officer or employee does not have, by virtue of the officer's or employee's position, any personal or property right to a city record even though the officer or employee developed or compiled it.

(c) The unauthorized destruction, removal from files, or use of such records is prohibited.

Sec. 2-303. Policy.

It is hereby declared to be the policy of the city to provide for efficient, economical, and effective controls over the creation, distribution, organization, maintenance, use, and disposition of all city records through a comprehensive system of integrated procedures for the management of records from their creation to their ultimate disposition, consistent with the requirements of the Local Government Records Act and accepted records management practices.

Sec. 2-304. Office of records manager established.

(a) The city secretary shall be designated as the records management officer for the city, who shall administer the records management program and shall be responsible for citywide files management and the direction and control of the city's records disposition program.

(b) The name, office or position of the records management officer shall be entered in the minutes of the governing body. The name and office or position of the records management officer shall be filed with the director and librarian of the Texas State Library and Archives Commission within 30 days after the date of the designation. In the event a new name and office or position is designated, the same shall be entered on the minutes and reported by the records management officer to the director and librarian in the same manner as the original designation.

Sec. 2-305 Records management plan; authority of plan.

(a) The records management officer shall develop a records management plan for the city. The plan must contain policies and procedures designed to reduce the costs and improve the efficiency of recordkeeping, to adequately protect the essential records of the city, and to properly preserve those records of the city that are of historical value. The plan must be designed to enable the records management officer to carry out his or her duties prescribed by state law and this ordinance effectively.

(b) Plan shall be binding on all offices, departments, divisions, programs, commissions, boards, committees or similar entities of the City of The Colony, and records shall be maintained, stored, and disposed of in accordance with the plan.

Sec. 2-306. Duties of records management officer.

The records management officer shall have the following duties in addition to the duties required by law:

- (1) Administer the records management program and provide assistance to department heads in its implementation.
- (2) Plan, formulate, and prescribe basic files management and records disposition policies, systems, standards, and procedures.
- (3) Prepare records retention and disposition schedules in cooperation with department heads for all city offices and departments, define and identify essential and permanent records, and establish retention periods for all records. Retention periods shall be no shorter than the minimum requirements established on records retention schedules issued by the Texas State Library and Archives Commission.
- (4) Review and revise record control schedules or amendments thereto as may be required, and certify the same as required by state law.
- (5) Develop, disseminate, and coordinate files maintenance and records disposition procedures, including but not limited to those prescribed by this article, to meet the current and long-term information needs of the city.
- (6) Train departmental records liaison officers and other personnel in the fundamentals of records management and their duties in the records management program.
- (7) Carry out at the proper time actions such as microfilming, destruction, and transfers that are required by records schedules.
- (8) Design and manage the operations of a records center for the low-cost storage of active and inactive records.
- (9) Establish in cooperation with other responsible city officials a disaster plan to ensure maximum availability of essential records needed for re-establishing operations quickly and with minimum disruption and expense.
- (10) Develop procedures to ensure the permanent preservation of the historically valuable records of the city.

- (11) Protect privacy and assure availability of public information from records stored in the records center; bring to the attention of the city manager any office not in compliance with laws or ordinances regarding public access to information or protection of privacy.
- (12) Provide records management advice and assistance to all city offices and departments, by preparation of manuals of procedures and policies and by on-site consultation.
- (13) Maintain records of the volume of records destroyed under approved records control schedules, and other information related to records management activities.
- (14) Disseminate to city council, department heads, and other personnel information concerning state laws and administrative rules relating to local government records.

Sec. 2-307. Duties and responsibilities of city department heads.

In addition to other duties assigned by state law and this chapter, every department head shall:

- (1) Cooperate with the records management officer in carrying out the policies and procedures established by the city for the efficient and economical management of city records.
- (2) Maintain city records in the department head's custody and carry out the preservation, storage, destruction or other disposition of those records only in accordance with the records management program, and ensure the ability to access those records regardless of the form or medium.
- (3) Adequately document the transaction of government business and the services, programs, and duties for which the department head and the department head's staff are responsible.
- (4) Review and approve records retention and disposition schedules and requests to dispose of records that are prepared and submitted under the direction of the records management officer.
- (5) In cooperation with the records management officer, identify essential records of the department and establish a records disaster plan recovery plan to ensure maximum availability of the records to re-establish operations quickly and with minimal disruption and expense.

- (6) Designate records liaison officers within their offices and provide the records management officer the names of such designees and of all file stations and files custodians under their supervision.
- (7) Provide the records liaison officers with full access to files in their departments.

Sec. 2-308. Duties and responsibilities of records liaison officers.

In addition to other duties assigned in this article, records liaison officers shall:

- (1) Report directly to the head of their department on matters relating to the records management program;
- (2) Cooperate with the records management officer in carrying out the policies and procedures established by the city for the efficient and economical management of records and in carrying out the requirements of state law;
- (3) Conduct or supervise the conduct of inventories of the records of the department in preparation for the development of records control schedules;
- (4) Disseminate information to department staff concerning the records management program;
- (5) Maintain the records in the officer's care and carry out their preservation, microfilming, storage, destruction, or other disposition only in accordance with the policies and procedures of the city's records management program and the requirements of state law, and rules adopted thereunder.

Sec. 2-309. Records schedules to be developed; approval; filing with state.

(a) The records management officer, in cooperation with department heads and records liaison officers, shall prepare records control schedules on a department by department basis listing all records created or received by the department and the retention period for each record. Records control schedules shall also contain such other information regarding the disposition of municipal records as the records management plan may require.

(b) Each records control schedule shall be monitored and amended as needed by the records management officer on a regular basis to ensure that it is in

compliance with records retention schedules issued by the state and that it continues to reflect the recordkeeping procedures and needs of the department and the records management program of the city.

(c) Before its adoption a records control schedule or amended schedule for a department must be approved by the department head and the city attorney.

(d) Before its adoption a records control schedule must be submitted to and accepted for filing by the director and librarian as provided by state law. If a schedule is not accepted for filing, the schedule shall be amended to make it acceptable for filing. The records management officer shall submit the records control schedule to the director and librarian.

(e) In lieu of filing a records control schedule or amendments to an established schedule, the records management officer may file with the director and librarian a written certification of compliance that the city has adopted records control schedules that comply with the minimum requirements established on records retention schedules issued by the Texas State Library and Archives Commission, as amended.

Sec. 2-310. Implementation of records control schedules; destruction of records under schedule.

(a) A records control schedule for a department that has been approved and adopted under the records management plan shall be implemented by department heads and records liaison officers according to the policies and procedures of the records management plan.

(b) A record whose retention period has expired on a records control schedule shall be destroyed unless an open records request is pending on the record, the subject matter of the record is pertinent to a pending law suit, or the department head requests in writing to the records management officer that the record be retained for an additional period.

(c) Prior to the destruction of a record under an approved records control schedule, authorization for the destruction must be obtained by the records management officer from the department head and the city attorney.

Sec. 2-311. Destruction of unscheduled records.

A record that has not yet been listed on an approved records control schedule may be destroyed if its destruction has been approved in the same manner as a record destroyed under an approved schedule and the records management officer

has submitted to and received back from the director and librarian an approved destruction authorization request.

Sec. 2-312. Records center.

(a) The records center operation shall utilize one or more buildings to store active and inactive records; to ensure the security of such records from deterioration, theft, or damage during the period of storage; to permit fast, efficient retrieval of information from stored records.

(b) The records center, developed pursuant to the records management plan shall be under the direct control and supervision of the records management officer. Policies and procedures regulating the operations and use of the records center shall be contained in the records management plan.

Sec. 2-313. Preservation of permanent records.

The records management officer shall develop procedures to ensure the permanent preservation of the historically valuable records of the city. The records management officer shall provide housing under archival conditions for such records in the records center or in another municipal facility and in such manner that records, unless their use is restricted by law or regulation, are open to the public for research purposes. If city-owned facilities are not available, the records management officer shall arrange for the transfer of the records to the Texas State Library for perpetual care and preservation in one of its nearby regional historical resource depositories, or shall make other arrangements for their permanent preservation not contrary to law or regulation. In no circumstances shall the permanent records of the city be transferred to private individuals, to private historical societies or museums, or to private colleges or universities.

Sec. 2-314. Noncurrent records not to be maintained in office files.

Records no longer required in the conduct of current business by any office of the city shall be promptly transferred to the records center or archives or the state library, or be destroyed, at the time such action is designated on an approved records schedule. Such records shall not be maintained in current office files or equipment.

Sec. 2-315. Microfilming and electronic storage of records.

(a) City records may be microfilmed in accordance with State law and the administrative rules of the Texas State Library and Archives Commission and under the supervision of the records management officer. No office or department shall operate a separate microfilming program, and no city funds may be expended to film, or to contract with a service company to film, any city records, except through the records management office.

(b) The creation, maintenance, preservation, electronic document imaging, and storage of the electronic records of the city must comply with state law and the administrative rules of the Texas State Library and Archives Commission.”

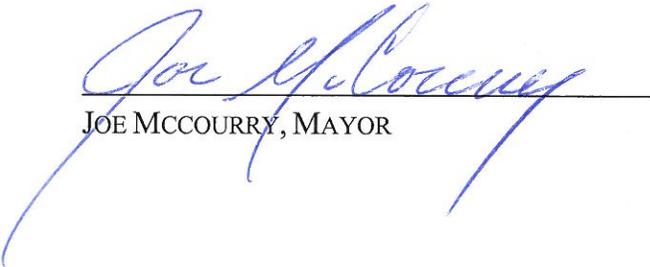
SECTION 2. If any section, article paragraph, sentence, clause, phrase or word in this ordinance, or application thereto any persons or circumstances is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance; and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 3. That all provisions of the Ordinances of the City of The Colony, Texas, in conflict with the provisions of this ordinance be, and the same are hereby amended, repealed, and all other provisions of the Ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 4. That all provisions of the Ordinances of the City of The Colony, Texas, in conflict with the provisions of this ordinance be, and the same are hereby amended, repealed, and all other provisions of the Ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 5. This Ordinance shall become effective from and after its date of passage in accordance with law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS THIS 20th day of July, 2009.



JOE MCCOURRY, MAYOR

ATTEST:

Christie Wilson
CHRISTIE WILSON, CITY SECRETARY

APPROVED AS TO FORM:

Robert E. Hager, Jr. for
ROBERT E. HAGER, CITY ATTORNEY
(REH/cdb 06/29/09)

