

ORDINANCE #012-12

AN ORDINANCE REPEALING AND REPLACING ORDINANCE #90-108; ESTABLISHING AN ACTIVE AND CONTINUING RECORDS MANAGEMENT PROGRAM TO BE ADMINISTERED BY A RECORDS MANAGEMENT OFFICER AS PRESCRIBED BY THE LOCAL GOVERNMENT RECORDS ACT AND PROVIDING FOR A SEVERABILITY CLAUSE; AND WAIVING READING AT TWO MEETING OF THE COMMISSION

WHEREAS, Title , Subtitle C, Local Government Code (Local Government Records Act) provides that a municipality must establish by ordinance an active and continuing records management program to be administered by a Records Management Officer; and

WHEREAS, the *City of De Leon* desires to adopt an ordinance for that purpose and to prescribe policies and procedures consistent with the Local Government Records Act and in the interest of cost-effective and efficient recordkeeping

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DE LEON, TEXAS

Section 1.        Definitions of Municipal Records

All documents, papers, letters, books, maps, photographs, sound or video recordings, microfilm, magnetic tape, electronic media, or other information recording media, regardless of physical form or characteristic and regardless of whether public access to them is open or restricted under the laws of the state, created or received by the *City of De Leon* or any of its officers or employees pursuant to law or in the transaction of public business are hereby declared to be the records of the *City of De Leon* and shall be created, maintained, and disposed of in accordance with the provisions of this ordinance or procedures authorized by it and in no other manner.

Section 2.        Additional Definitions

- (1) "Department Head" means the officer who by ordinance or administrative policy is in charge of an office of the *City of De Leon* that creates or receives records.
- (2) "Essential record" means any record of the *City of De Leon* 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.
- (3) "Permanent record" means any record of the *City of De Leon* for which the retention period on a records control schedule is given as permanent.
- (4) "Records control schedule" means a document prepared by or under the authority of the Records Management Officer listing the records maintained by the *City of De Leon*, their retention periods, and other records disposition information that the records management program may require.
- (5) "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 micrographics and electronic and other records storage systems.

- (6) "Records management officer" means the person designated in Section 5 of this ordinance.
- (7) "Records management plan" means the plan developed under Section 6 of this ordinance.
- (8) "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.

**Section 3.        Municipal Records Declared Public Property**

All municipal records as defined in Sec. 1 of this ordinance are hereby declared to be the property of the *City of De Leon*. No municipal official or employee has, by virtue of his or her position, any personal or property right to such records even though he or she may have developed or compiled them. The unauthorized destruction, removal from files, or use of such records is prohibited.

**Section 4.        Policy**

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

**Section 5.        Designation of Records Management Officer**

The *City Administrator/Secretary*, and the successive holders of said office, shall serve office, shall serve as Records Management Officer for the *City of De Leon*. As provided by state law, each successive holder of the office shall file his or her name with the director and librarian of the Texas State Library with thirty (30) days of the initial designation or of taking up the office, as applicable.

**Section 6.        Records Management Plan To Be Developed; Approval of Plan; Authority of Plan**

- (a) The Records Management Officer shall develop a records management plan for the *City of De Leon* for submission to the *City Council*. 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 municipality, and to properly preserve those records of the municipality that are the 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) Once approved by the *City Council* the records management plan shall be binding on all offices, departments, divisions, programs, commissions, bureaus, boards, committees, or similar entities of the *City of De Leon* and records shall be created, maintained, stored, microfilmed, or disposed of in accordance with the plan.

- (c) State law relating to the duties, other responsibilities, or recordkeeping requirements of a department head do not exempt the department head or the records in the department head's care from the applications of this ordinance and the records management plan adopted under it and may not be used by the department head as a basis for refusal to participate in the records management program of the *City of De Leon*.

**Section 7. Duties Of Records Management Officer**

In addition to other duties assigned in this ordinance, the Records Management Officer shall:

- (1) administer the records management program and provide assistance to department heads in its implementation; *[Texas Local Gov't Records Act §203.023]*
- (2) plan, formulate, and prescribe records disposition policies, systems, standards, and procedures; *[Texas Local Gov't Records Act §201.003(13)]*
- (3) in cooperation with department heads identify essential records and establish a disaster plan for each municipal office and department to ensure maximum availability of the records in order to re-establish operations quickly and with minimum disruption and expense; *[Texas Local Gov't Records Act §203.023]*
- (4) develop procedures to ensure the permanent preservation of the historically valuable records of the city; *[Texas Local Gov't Records Act §203.023]*
- (5) establish standards for filing and storage equipment and for recordkeeping supplies; *[Texas Local Gov't Records Act §201.003(13)]*
- (6) study the feasibility of and, if appropriate, establish a uniform filing system and a forms design and control system for the *City of De Leon*; *[Texas Local Gov't Records Act §201.003(13)]*
- (7) monitor records retention schedules and administrative rules issued by the Texas State Library and Archives Commission to determine if the records management program and the municipality's records control schedule are in compliance with state regulations; *[Texas Local Gov't Records Act §201.003(13)]*
- (8) disseminate to the *City Council* and department heads information concerning state laws and administrative rules relating to local government records; *[Texas Local Gov't Records Act §203.023]*
- (9) ensure that the maintenance, preservation, microfilming, destruction, or other disposition of the records of the *City of De Leon* are carried out in accordance with the policies and procedures of the records management program and the requirements of state law; *[Texas Local Gov't Records Act §203.023]*
- (10) maintain records on the volume of records destroyed under approved records control schedules or through records destruction authorization requests, the volume of records microfilmed or stored electronically, and the estimated cost and space savings as the result of such disposal or disposition; *[Texas Local Gov't Records Act §201.003(13)]*
- (11) report annually to the *City Council* on the implementation of the records

management plan in each department of the *City of De Leon*, including summaries of the statistical and fiscal data compiled under Subsection (10); and [*Texas Local Gov't Records Act §201.003(13)*]

- (12) bring to the attention of the *City Council* non-compliance by department heads or other municipal personnel with the policies and procedures of the records management program or the Local Government Records Act. [*Texas Local Gov't Records Act §201.003(13)*]

**Section 8.        *Duties and Responsibilities of Department Heads***

In addition to other duties assigned in this ordinance, department heads shall:

- (1) cooperate with the Records Management Officer in carrying out the policies and procedures established in the *City of De Leon* for the efficient and economical management of records and in carrying out the requirements of this ordinance;
- (2) adequately document the transaction of government business and the services, programs, and duties for which the department head and his or her staff are responsible; and
- (3) maintain the records in his or her care and carry out their preservation, microfilming, destruction, or other disposition only in accordance with the policies and procedures of the records management program of the *City of De Leon* and the requirements of this ordinance.

**Section 9.        *Records Control Schedules To Be Developed; Approval; Filing With State***

- (a) The Records Management Officer, in cooperation with department heads, shall prepare records control schedules on a department by department by department basis listing all records series created or received by the department and the retention period for each series. 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 of De Leon*.
- (c) Before its adoption a records control schedule or amended schedule for a department must be approved by the department head and the *City Council*.
- (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 schedules to the director and librarian.

**Section 10.      *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 Section 9 shall be implemented by department heads 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 *City of De Leon*.

**Section 11.**     **Destruction of Unscheduled Records**

A record 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.

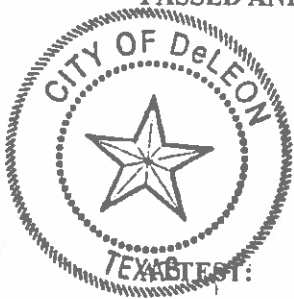
**Section 12.**     **Severability**

If any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs of this Ordinance, since the same would have been enacted by the City Council with out the incorporation in the Ordinance of unconstitutional or invalid phrases, clauses, sentences, paragraphs, or sections.


**Section 13.**     **Waiver of Multiple Readings**

Pursuant to Article VII, Section 11 of the City Charter the requirement for reading the ordinance at two (2) meetings of the City Commission is waived.

PASSED AND APPROVED by the City Council on this the 13 day of September, 2012.



  
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*Lowell Ercanbrack*  
Mayor

  
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*Karen Wilkerson*  
City Administrator/Sec