

# **Texas State Library and Archives Commission**

## **State and Local Records Management Division**

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### **Suggested Policy Model for Establishing a Records Management Program by Ordinance, Order, or Resolution for Large Local Governments**

The Texas Local Government Records Act (Title 6, Subtitle C, Local Government Code) requires that each local government establish a records management program by ordinance, order, or resolution. A copy of the ordinance, order, or resolution must be filed with the director and librarian of the Texas State Library, the executive and administrative officer of the Texas Library and Archives Commission. The model below satisfies this requirement of the Act and can be modified to fit the records management needs of any local government. It establishes the authority and assigns the responsibility for carrying out the records management program required by state law and creates the administrative framework through which the purposes of the program are to be achieved.

State law requires that each local government designate a records management officer. As written, the model is designed for local governments, expected to be the great majority of those in the state, that contemplate having their records management programs administered on a part-time basis by officials who have other duties in addition to those of records management officers. There are two Sections 5 in the model. Which one to use depends on whether the designated records management officer is a named individual or a named office, the successive holders of which will serve as records management officer. We recommend the latter alternative because it helps ensure continuity. Larger governments that already have or anticipate hiring full-time records managers should modify the model to provide for a formal records management department or subdepartment.

One of the central strategies of cost-effective records management is the separation of active from semi-active or inactive records and the removal of the latter from the active office space in each department of the local government to a centralized records storage area. This storage area must be under the authority of the records management officer, as the model provides, if it is to serve its purpose effectively. (See Section 15.)

In the same vein, another traditional strategy of managing records effectively—micrographics—should be centralized and placed under the direction of the records management officer. If, as a special circumstances occasionally dictate, a department of a local government has a separate microfilm program, management protocols should be established to avoid duplication of effort, to take advantage of any bulk purchase discounts on microfilm supplies, etc. Microfilming clauses and provisions from their own ordinance, order, or resolution. (See Section 16.)

The model contains two provisions (Sections 6 and 10)—relating to a records management committee and records liaison officers—that are not specifically called for in the Local Government Records Act, but are traditional organizational features of good records management programs. They will help ensure that the records management program runs smoothly and that all departments of the government benefit from it.

## Model Ordinance or Order

[Title]

**WHEREAS**, Title 6, Subtitle C, Local Government Code (Local Government Records Act), provides that a [type of government] must establish by [ordinance, order, or resolution] an active and continuing records management program to be administered by a Records Management Officer; and

**WHEREAS**, the [name of government] desires to adopt an [ordinance, order, or resolution] for that purpose and to prescribe policies and procedures consistent with the Local Government Records Act and in the interests of cost-effective and efficient recordkeeping; **NOW THEREFORE**:

### **Be It [Ordained, Ordered, or Resolved] by the [Type of Governing Body] of [Name of Government]**

**SECTION 1. DEFINITION [TYPE OF GOVERNMENT] 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 [name of government] 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 [name of government] and shall be created, maintained, and disposed of in accordance with the provisions of this [ordinance, order, or resolution] or procedures authorized by it and in no other manner.

**SECTION 2. ADDITIONAL DEFINITIONS.** (1) “Department head” means the officer who by ordinance, order, or administrative policy is in charge of an office of the [name of government] that creates or receives records.<sup>1</sup>

(2) “Essential record” means any record of the [name of government] necessary to the resumption or continuation of its operations of the [name of government] in an emergency or disaster, to the re-creation of its legal and financial status of the [name of government], or to the protection and fulfillment of obligations to the people of the state.

(3) “Permanent record” means any record of the [name of government] 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 [name of government], 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 liaison officers” means the persons designated in Section 10 of this [ordinance, order, or resolution].

(7) “Records management committee” means the committee established in Section 6 of this [ordinance, order, or resolution].

(8) “Records management officer” means the person designated in Section 5 of this [ordinance, order, or resolution].

(9) “Records management plan” means the plan developed under Section 7 of this [ordinance, order, or resolution].

(10) “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. [TYPE OF GOVERNMENT] RECORDS DECLARED PUBLIC PROPERTY.** All [type of government] records as defined in Section 1 of this ordinance are hereby declared to be the property of the [name of government]. No [type of government] 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 [name of government] to provide for efficient, economical, and effective controls over the creation, distribution, organization, maintenance, use, and disposition of all [type of government] records through a comprehensive system of integrated procedures for the management of records from creation to their ultimate disposition, consistent with the requirements of the Texas Local Government Records Act and accepted records management practice.

#### **SECTION 5.<sup>2</sup>**

**Version 1. DESIGNATION OF RECORDS MANAGEMENT OFFICER.** The [type of governing body, or title of chief administrative officer] shall designate an individual, employed by the [type of government], to serve as Records Management Officer for the [name of government]. In the event of the resignation, retirement, dismissal, or removal by action of the [type of governing body or title of chief administrative officer] of the individual so designated, the [type of governing body or title of chief administrative officer] shall promptly designate another individual to serve as Records Management Officer.<sup>3</sup> The individual designated as Records Management Officer shall file his or her name with the director and librarian of the Texas State Library within thirty days of the date of designation, as provided by state law.

**Version 2. DESIGNATION OF RECORDS MANAGEMENT OFFICER.** The [name of office], and the successive holders of said office, shall serve as Records Management Officer for the [name of government]. 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 within thirty days of the initial designation or of taking up the office, as applicable.

**SECTION 6. ESTABLISHMENT OF RECORDS MANAGEMENT COMMITTEE; DUTIES.<sup>4</sup>** A Records Management Committee consisting of the [titles of positions] is hereby established. The committee shall:

- (a) assist the Records Management Officer in the development of policies and procedures governing the records management program;
- (b) review the performance of the program on a regular basis and propose changes and improvements if needed;
- (c) review and approve records control schedules submitted by the Records Management Officer;
- (d) give final approval to the destruction of records in accordance with approved records control schedules; and
- (e) actively support and promote the records management program throughout the [name of government].

**SECTION 7. RECORDS MANAGEMENT PLAN TO BE DEVELOPED; APPROVAL OF PLAN; AUTHORITY OF PLAN.**<sup>5</sup>

(a) The Records Management Officer and the Records Management Committee shall develop a records management plan for the [name of government] for submission to the [type of governing body]. 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 [type of government], and to properly preserve those records of the [type of government] 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, order, or resolution] effectively.

(b) Once approved by the [type of governing body] the records management plan shall be binding on all offices, departments, divisions, programs, commissions, bureaus, boards, committees, or similar entities of the [name of government] 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 application of this [ordinance, order, or resolution] 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 [name of government].

**SECTION 8. DUTIES OF RECORDS MANAGEMENT OFFICER.**<sup>6</sup> In addition to other duties assigned in this [ordinance, order, or resolution], the Records Management Officer shall:

(1) administer the records management program and provide assistance to department heads in its implementation;

(2) plan, formulate, and prescribe records disposition policies, systems, standards, and procedures;

(3) in cooperation with department heads identify essential records and establish a disaster plan for each [type of government] office and department to ensure maximum availability of the records in order to re-establish operations quickly and with minimum disruption and expense;

(4) develop procedures to ensure the permanent preservation of the historically valuable records of the [type of government];

(5) establish standards for filing and storage equipment and for recordkeeping supplies;

(6) study the feasibility of and, if appropriate, establish a uniform filing system and a forms design and control system for the [name of government];

(7) provide records management advice and assistance to all [type of government] departments by preparation of a manual or manuals of procedure and policy and by on-site consultation;

(8) 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 [type of government]'s records control schedules are in compliance with state regulations;

(9) disseminate to the [type of governing body] and department heads information concerning state laws and administrative rules relating to local government records;

(10) instruct Records Liaison Officers and other personnel in policies and procedures of the records management plan and their duties in the records management program;

(11) direct Records Liaison Officers or other personnel in the conduct of records inventories in preparation for the development of records control schedules as required by state law and this [ordinance, order, or resolution];

(12) ensure that the maintenance, preservation, microfilming, destruction, or other disposition of the [type of government] records is carried out in accordance with the policies and procedures of the records management program and the requirements of state law;

(13) maintain records on the volume of records destroyed under approved records control schedules, the volume of records microfilmed or stored electronically, and the estimated cost and space savings as the result of such disposal or disposition;

(14) report annually to the [type of governing body] on the implementation of the records management plan in each department of the [name of government], including summaries of the statistical and fiscal data compiled under Subsection (13); and

(15) bring to the attention of the [type of governing body] noncompliance by department heads or other [type of government] personnel with the policies and procedures of the records management program or the Local Government Records Act.

**SECTION 9. DUTIES AND RESPONSIBILITIES OF DEPARTMENT HEADS.** In addition to other duties assigned in this [ordinance, order, or resolution], department heads shall:

(1) cooperate with the Records Management Officer in carrying out the policies and procedures established in the [name of government] for the efficient and economical management of records and in carrying out the requirements of this [ordinance, order, or resolution];

(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 [name of government] and the requirements of this [ordinance, order, or resolution].

**SECTION 10. DESIGNATION OF RECORDS LIAISON OFFICERS.** Each department head shall designate a member of his or her staff to serve as Records Liaison Officer for the implementation of the records management program in the department. If the Records Management Officer determines that in the best interests of the records management program more than one Records Liaison Officer should be designated for a department, the department head shall designate the number of Records Liaison Officers specified by the Records Management Officer. Persons designated as Records Liaison Officers shall be thoroughly familiar with all the records created and maintained by the department. In the event of the resignation, retirement, dismissal, or removal by action of the department head of a person designated as a Records Liaison Officer, the department head shall promptly designate another person to fill the vacancy. A department head may serve as Records Liaison Officer for his or her department.

**SECTION 11. DUTIES AND RESPONSIBILITIES OF RECORDS LIAISON OFFICERS.** In addition to other duties assigned in this [ordinance, order, or resolution], Records Liaison Officers shall:

(a) conduct or supervise the conduct of inventories of the records of the department in preparation for the development of records control schedules;

(b) in cooperation with the Records Management Officer coordinate and implement the policies and procedure of the records management program in their departments; and

(c) disseminate information to department staff concerning the records management program.

**SECTION 12. RECORDS CONTROL 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 [type of government] records as the records management plan may require.<sup>7</sup>

(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 [name of government].

*Version 1*<sup>8</sup>

(c) Before its adoption a records control schedule or amended schedule for a department must be approved by the department head and the members of the Records Management Committee.

*Version 2*

(c) Before its adoption a records control schedule or amended schedule for a department must be approved by the department head, the [title of office of chief legal officer], and the [title of office of chief financial officer].

(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 13. 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 12 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 Committee that the record be retained for an additional period.<sup>9</sup>

(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 Records Management Committee.<sup>10</sup>

**SECTION 14. 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 from an approved destruction authorization request.

**SECTION 15. RECORDS CENTER.**<sup>11</sup> A records center, developed pursuant to the plan required by Section 7, 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 developed under Section 7.

**SECTION 16. MICROGRAPHICS.**<sup>12</sup> Unless a micrographics program in a department is specifically exempted by order of the [type of governing body], all microfilming of records will be centralized and under the direct supervi-

sion of the Records Management Officer. The records management plan will establish policies and procedures for the microfilming is done in accordance with standards and procedures for the microfilming of local government records established in rules of the Texas State Library and Archives Commission. The plan will also establish criteria for determining the eligibility of records for microfilming, and protocols for ensuring that a microfilming program that is exempted from the centralized operations is, nevertheless, subject to periodic review by the records management officer as to cost-effectiveness, administrative efficiency, and compliance with commission rules.

## NOTES

<sup>1</sup> This provision is modeled after the definition of “custodian” in the Local Government Records Act (201.003(2)). That definition reads: “‘Custodian’ means the appointed or elected public officer who by the state constitution, state law, ordinance, or administrative policy is in charge of an office that creates or receives local government records.” The authority under which a person serves as a custodian of the records of a local government office varies from government to government. The definition in the ordinance or order should be modified to suit the circumstances of each government.

<sup>2</sup> It is important that either one or the other of Sections 5 (or a similar provision in those larger governments that have full-time records managers) appear in the ordinance or order, despite the fact that the records management officer may already have been designated in a previous action of the governing body.

Either one or the other of these sections can be modified appropriately if the local government, through a contract or agreement under the Interlocal Cooperation Act (Article 4413(32c)), will have records management services provided by a records management officer employed by another local government or by an administrative agency created under the contract or agreement.

Other than requiring that the designated records management officer be an employee of the local government (or of another local government or agency through the Interlocal Cooperation Act), the Local Government Act does not limit the authority of a governing body to designate whomever it wishes. State law, however, charges governing bodies with duties and responsibilities designed to promote the effective and efficient management of records and the preservation of historical resources. The records management officer will be the principal agent of the governing body for implementing the ordinance or order and because the records management program will affect every department of the local government, it is a matter of managerial efficiency that there be as few intermediary personnel between the records management officer and the governing body as possible. If a part-time records management officer is designated, he or she should be someone whose other duties are commensurate with the government-wide responsibilities and authority for the local government’s records program as provided by state law and this ordinance or order.

In larger governments, a records management program headed by a full-time, professional records manager should never be accorded anything less than the subdepartment status in the organizational chart of the government.

<sup>3</sup> Although state law directs the governing body to designate a records management officer, nothing in the law prevents the governing body from delegating this authority to the chief administrative officer, who may customarily appoint other department and program heads. The name of the individual designated must still be entered in the minutes of the governing body although he or she may have been designated by the chief administrative officer.

<sup>4</sup> We recommend that this provision for the establishment of a records management committee be included in the ordinances or orders of all but the smallest governments. Governing bodies of small local governments may have the time to take an active and direct role in the development of such policies and procedures and, in effect, would serve as a body similar to the records management committee contemplated in this provision. In larger governments, however, press of other business is usually such that the governing body will wish to delegate the task of assisting

the records management officer in developing policies and procedures for the program and in overseeing aspects of its operation to a committee. The membership of the committee should be kept small and should not include all department heads in the government. The chief attorney for the local government and its chief financial officer should be members of the committee. Other officials traditionally found on such committees are the chief administrator of the government (e.g., the city manager of a municipality; the superintendent of a school district); the risk manager, if there is such an officer; and a member of the governing body.

Local governments with full-time, professional records managers sometimes dispense with the establishment of a formal records management committee under the assumptions that the records manager is a professional who is well versed in the principles and strategies of effective records management and that he or she will consult on a regular basis with the appropriate officials in the development of a formal program. A decision not to establish a records management committee either in small governments or in governments with records management departments does not affect the need for approval of records control schedules provided for in Section 12.

The duty described under Subsection (d) is optional for this committee, but should not be optional for the program. Destruction of records under an approved schedule should not be fully automatic. State law forbids the destruction of records on which either an open records request or a law suit is pending, although the retention periods for the records may have expired. There may also occasionally be other factors that warrant keeping a record beyond its retention period. Provision should be made, as it is in this model in Section 13, for the final approval for the destruction of records under an approved schedule by either the records management committee or other officers, if a records management committee is not formed.

<sup>5</sup> If a records management committee is not established, this section should be amended to direct the records management officer alone to prepare a plan for adoption or to designate certain officers of the government to assist in the development of the plan. The difference between the formal committee of Section 6 and a group of officers designated to assist in this section is that the latter is *ad hoc* and temporary and will play no continuing role in the records management program unless specified to do so in other sections of the ordinance or order.

<sup>6</sup> The wording of Subsections (1), (3), (4), (9), and (12) is derived directly from the duties and responsibilities of records management officers set out in state law in §203.023, Local Government Code. The other duties prescribed are standard features in the centralized direction of records management in Section 2 of this model, the wording of which is taken directly from the definition of records management offered in the Texas Local Government Records Act (§201.003(13)).

If money is budgeted separately for the records management program in a local government, an additional duty of the records management officer would be to prepare an annual budget for the program. Of course, in larger governments with full-time records managers and departments, the preparation of an annual budget is an important duty of the records management officer.

The duties of the records management officer set out in this section should be expanded for those governments with formal records management departments and professional, full-time records managers. In the successful records management programs throughout the country, the authority of professional records managers in local governments typically extends to mail room operations, print shops, and data processing. In such governments, the records manager also usually exercises review authority, sometimes even veto authority, over the purchase of filing cabinets and other records storage equipment. Of course, any of these standard features of formal records management departments may be included among the duties of the part-time records management officer as well.

<sup>7</sup> In addition to stating a retention period for each records series as state law requires, records control schedules customarily contain other information regarding the life cycle or special characteristics of records: at what point inactive or semi-active records will be moved from offices to records storage areas, when records eligible for

microfilming will be filmed, which records require special storage or handling because they are essential, have permanent retention, or have restricted access. Since these additional elements in a records control schedule will differ somewhat from government to government, they are best defined in the records management plan rather than the ordinance or order.

<sup>8</sup>Two versions of Subsection (c) are given. Version 2 should be used if a formal records management committee was not established in Section 6. It is traditional for the chief legal officer and the chief financial officer of a local government to review and approve records control schedules before their adoption; the approval of other officers is optional. It is also often wise to insert a default clause, giving the designated officers a certain number of days to review and approve a schedule, otherwise the schedule is adopted automatically. The disinterest of a designated officer in the goals and purposes of the records program might be inserted at this point providing that schedules are adopted by a majority vote of the committee; again, to forestall the disinterest of a single member from compromising the records program.

<sup>9</sup>The request should go to the Records Management Officer, if a Records Management Committee was not established in Section 6.

This Subsection may be in the records management plan and not the ordinance or order. It is included here because of its crucial importance in successful records management programs. One of the fundamental tenets of records management is that a record be destroyed when its value has ceased for the organization that maintains it. The duration of the record's value has already been determined by the setting of the retention period on the records control schedule. Barring, therefore, pending open records requests or lawsuits or the occasional special circumstance, a local government's records management program should provide for the mandatory destruction of records whose retention periods have expired. Discretionary programs in which department heads *may* dispose of records under schedule *never* result in the benefits in cost and space savings and administrative efficiency a well-designed program is designed to deliver. In practice, the submission of requests from department heads for an extension of a retention period may result in the amendment of the retention period on the records control schedule.

<sup>10</sup>Or, if a records management committee has not been established, destruction should be authorized by the same officers designated under Section 12 to approve records control schedules. The same provisions relating to a majority vote or the designation of a time limit for approval may also be inserted at this point.

<sup>11</sup>This section is optional depending on whether or not the local government makes provision for an area in which to store semi-active or inactive records. The true success of a records management program in all but the smallest governments largely depends on the separation of active from inactive records and the removal of the latter from expensive office space to storage areas in which records can be economically stored in uniform-sized, well-labeled boxes on steel shelving laid out in a configuration that allows for the storage of the maximum number of boxes given the space available. Records centers range from entire buildings devoted exclusively to records storage to areas in existing buildings set aside for that purpose. It is absolutely imperative for the success of a records program that the records storage area, however large or small, be under the direct authority of the records management officer and operated under procedures embodied in the records management plan. For the records center to be under another officer is to defeat the entire concept of a centralized, government-wide records management program, the only kind of program that brings results.

<sup>12</sup>An optional section depending on whether the local government microfilms or not. The section is written on the basis of an in-house microfilming operation. If all microfilming is done by service bureaus, the section should be amended to provide centralized supervision and coordination of microfilming service contracts. There may be certain ongoing microfilming projects (e.g. Computer Output Microfilming (COM) by a police department) which are impracticable for centralized operations, but central review of departmental level programs is an important part of effective records management. Again, as with records centers, it is imperative that the records management officer have control over centralized micrographics.

There is no provision in the model concerning the electronic storage of records. In larger governments that contemplate putting data processing under the records management officer, a provision for that purpose should be inserted. Other types of electronic storage, especially those involving PCs and optical disk systems, are not easily subject to centralized operations, but they should be subject in the records management program to centralized review and oversight, particularly with regard to security for any essential records stored electronically. Records of permanent value can be stored electronically only with the prior permission of the Texas State Library and Archives Commission and are subject to procedural rules laid down by the commission. State law provides that requests for authorization to store records electronically are submitted by the records management officer. It is important, therefore, for the records management plan to include policies and procedures regulating the electronic storage of records in the government.