

ORDINANCE NO. 1739

AN ORDINANCE OF THE TOWN OF LITTLE ELM, TEXAS, AMENDING THE CODE OF ORDINANCES, BY AMENDING CHAPTER 2, ARTICLE II, UPDATING THE RECORDS MANAGEMENT PROGRAM; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Title 6, subtitle C, Texas Local Government Code (Local Government Records Act) provides that a municipal government must establish by ordinance an active and continuing records management program to be administered by a Records Management Officer; and

WHEREAS, the Town of Little Elm desires to update the city 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 BY THE TOWN COUNCIL OF THE TOWN OF LITTLE ELM, TEXAS:

SECTION 1. That the Code of Ordinances of the Town of Little Elm, Texas, be and the same is hereby amended by amending Chapter 2, Article II, to read as follows:

Sec. 2-19. Records management program.

The Town Council deems it necessary to implement a continuing records management program to be administered by a records management officer in accordance with the Local Government Records Act.

Sec. 2-20. Definition of town 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 it is open or restricted under the laws of the state, created or received by the Town of Little Elm 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 Town of Little Elm 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.

Sec. 2-21. Additional definitions.

- (1) "Department director" means the officer who by ordinance, order, or administrative policy is in charge of an office of the town that creates or receives records.

- (2) “Essential record” or “vital record” means any record of the town necessary to the resumption or continuation of operations of the town in an emergency or disaster, to the recreation of the legal and financial status of the town, or to the protection and fulfillment of obligations to the people of the state.
- (3) “Permanent record” means any record of the town 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 town, 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” mean the persons designated under Section 2-28.
- (7) “Records management officer” means the person designated in Section 2-24.
- (8) “Records management plan” means the plan developed under Section 2-25.
- (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. 2-22. Town records declared public property.

All town records as defined in Section 2-20 are hereby declared to be the property of the Town of Little Elm. No town official or employee has, by virtue of such person's position, any personal or property right to such records even though such person may have developed or compiled them. The unauthorized destruction, removal from files, or use of such records is prohibited.

Sec. 2-23. Policy.

It is hereby declared to be the policy of the Town of Little Elm to provide for efficient, economical, and effective controls over the creation, distribution, organization, maintenance, use, and disposition of all town 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 practice.

Sec. 2-24. Designation of records management officer.

The town secretary, and the successive holders of said office, shall serve as records management officer for the town. As provided by state law, each successive holder of the office shall file such person's 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.

Sec. 2-25. Records management plan to be developed; authority of plan.

- (a) The records management officer shall develop a records management plan for the town in accordance with town policy and state law. 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 town, and to properly preserve those records of the town 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 article effectively.
- (b) The records management plan shall be binding on all offices, departments, divisions, programs, commissions, bureaus, boards, committees, or similar entities of the town 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 director do not exempt the department director or the records in the department director's care from the application of this article and the records management plan adopted under it and may not be used by the department director as a basis for refusal to participate in the records management program of the town.

Sec. 2-26. Duties of records management officer.

In addition to other duties assigned in this article, the records management officer shall:

- (1) administer the records management program and provide assistance to department directors in its implementation;
- (2) plan, formulate, and prescribe records disposition policies, systems, standards, and procedures;
- (3) in cooperation with department directors identify essential records and establish a disaster plan for each town 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 town;
- (5) establish standards for filing and storage equipment and for recordkeeping supplies;
- (6) provide records management advice and assistance to all town departments by preparation of a manual or manuals of procedure and policy and by on-site consultation;
- (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 town's records control schedules are in compliance with state regulations;
- (8) disseminate to the town and department directors information concerning state laws and administrative rules relating to local government records;
- (9) instruct records liaison officers and other personnel in policies and procedures of the records management plan and their duties in the records management program;
- (10) direct records liaison officers or other personnel in the conduct of records inventories in accordance with adopted retention schedules and policies as required by state law and this article;
- (11) ensure that the maintenance, preservation, microfilming, destruction, or other disposition of the town records is carried out in accordance with the policies and procedures of the records management program and the requirements of state law;
- (12) 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;
- (13) report annually to the town manager, or designee on the implementation of the records management plan in each department of the town, including summaries of the statistical and fiscal data compiled under section 2-26 (12); and

- (14) bring to the attention of the town manager non-compliance by department directors or other town personnel with the policies and procedures of the records management program or the Local Government Records Act.

Sec. 2-27. Duties and responsibilities of department directors.

In addition to other duties assigned in this article, department directors shall:

- (1) cooperate with the records management officer in carrying out the policies and procedures established in the town for the efficient and economical management of records and in carrying out the requirements of this article;
- (2) adequately document the transaction of government business and the services, programs, and duties for which the department director and such person's staff are responsible; and
- (3) maintain the records in such person's 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 town and the requirements of this article.

Sec. 2-28. Designation of records liaison officers.

Each department director shall designate a member of such department director's 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 director 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 director of a person designated as a records liaison officer, the department director shall promptly designate another person to fill the vacancy. A department director may serve as records liaison officer for such department.

Sec. 2-29. Duties and responsibilities of records liaison officers.

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

- (a) conduct or supervise the conduct of inventories of the records of the department in accordance with adopted retention schedules and policies;

- (b) in cooperation with the records management officer coordinate and implement the policies and procedures of the records management program in their departments; and
- (c) disseminate information to department staff concerning the records management program.

Sec. 2-30. Records control schedules to be developed; approval; filing with state.

- (a) The records management officer, in cooperation with department directors and record 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 town records as the records management plan may require. The city submitted a Declaration of Compliance with the Records Scheduling Requirement of the Local Government Records Act with the Texas State Library and Archives Commission on November 22, 2023, declaring that the city has adopted record control schedules that comply with the minimum requirements established on records retention schedules issued by the Texas State Library and Archives Commission.
- (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 town.

Sec. 2-31. 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 2-30 shall be implemented by department directors 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 director 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 destruction must be obtained by the records management officer.

Sec. 2-32. 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 of the Texas State Library an approved destruction authorization request.

Sec. 2-33. Records center.

A records center, developed pursuant to the plan required by section 2-25, 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 2-25.

Sec. 2-34. Micrographics.

All existing records that have been microfilmed but not yet converted into a scanned record shall be maintained up to the point in which they are scanned, until their retention has been met, or as is administratively valuable in accordance with Texas State Library and Archives Commission.

Sec. 2-35. Electronic storage.

Electronic records shall have the same retention and storage and ownership requirements as records of any other format. The records management plan will establish policies and procedures for the electronic storage of town records, including policies to ensure that all scanning, imaging, or electronic storage is done in accordance with standards and procedures for electronic records of local government records established in rules of the Texas State Library and Archives Commission.

Sec. 2-36. Archival storage.

Records, regardless of media that have been determined to have continuing historical value beyond the retention requirements, may be transferred to the town's archives with written approval of the records management officer. The records management plan will establish policies and procedures for archival custody of town records.

SECTION 2. That all provisions of the ordinances of the Town of Little Elm in conflict with the provisions of this Ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the Town of Little Elm not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 3. That should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 4. That this Ordinance shall take effect from and after its passage as the law and charter in such cases provide.

DULY PASSED by the Town Council of the Town of Little Elm, Texas, on the 5th day of December, 2023.

APPROVED:

Curtis J. Cornelious, Mayor

Caitlan Biggs, Town Secretary

APPROVED AS TO FORM:

Robert Brown, Town Attorney