

**ORDINANCE No. 2022- \_\_\_\_**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF NEW BRAUNFELS, CHAPTER 2, ARTICLE V-RECORDS MANAGEMENT, TO REDESIGNATE THE RECORDS MANAGEMENT OFFICER FROM THE CITY SECRETARY TO THE RECORDS MANAGEMENT COORDINATOR; ELIMINATING THE RECORDS MANAGEMENT COMMITTEE; CONTAINING A SEVERABILITY, SAVINGS CLAUSE, AND EFFECTIVE DATE.**

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WHEREAS, the Local Government Records Act (the “Act”), Section 203.025 of the Texas Local Government Code, requires local governments to designate an individual, office, or position to be the records management officer who is responsible for fulfilling duties under the Act; and

WHEREAS, the records management officer is responsible for establishing and developing policies and procedures for the City’s records management program and administering the program.

WHEREAS, in Ordinance 90-33, the City Council named the City Secretary as the records management officer; and

WHEREAS, in the FY 2021-22 budget, the City Council created a new position of a records management coordinator who is responsible for records management and retention; and

WHEREAS, the City Secretary recommends naming the records management coordinator to serve as records management officer for the City, and to file this designation with the Director and Librarian of the Texas State Library and Archives Commission, as required by state law; and

WHEREAS, the Act does not require the records management committee which is comprised of the city manager, city attorney, and finance director, and is not necessary because of the new position of records management coordinator acting as the city’s records management officer.

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

I.

THAT the City of New Braunfels Code of Ordinances, Chapter 2, Article v-Records Management, Sections 2-152, 2-155 through 2-157, 2-162, and 2-163, be amended or repealed as follows, with strikethrough font indicating deletions and underlined font indicating additions:

**Sec. 2-152. Definitions generally.**

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Department head* means the officer who by ordinance, order, or administrative policy is in charge of an office of the city that creates or receives records.

*Director and librarian* means the executive and administrative officer of the state library and archives commission.

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

*Permanent record* means any record of the city for which the retention period on a records control schedule is permanent.

*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.

*Records liaison officers* means the persons designated under [section 2-160](#).

*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 micrographic and electronic and other records storage systems.

~~*Records management committee* means the committee established in [section 2-156](#).~~

*Records management officer* means the person designated in [section 2-155](#).

*Records management plan* means the plan developed under [section 2-157](#).

*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.

(Code 1961, § 2-15)

**Sec. 2-155. Management officer designated.** The ~~city secretary,~~ records management coordinator, and the successive holders of such office, shall serve as records management officer for the city. 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 and Archives Commission within 30 days of the initial designation or of taking of the office, as applicable.

**Sec. 2-156. Reserved. MANAGEMENT COMMITTEE DESIGNATED; DUTIES.**

~~A records management committee consisting of the city manager, the city attorney and the director of finance is hereby established. The committee shall:~~

- ~~1. Assist the records management officer in the development of policies and procedures governing the records management program;~~
- ~~2. Review the performance of the program on a regular basis and propose changes and improvements if needed;~~
- ~~3. Review and approve records control schedules submitted by the records management officer;~~
- ~~4. Give final approval to the destruction of records in accordance with approved records control schedule; and~~
- ~~5. Actively support and promote the records management program throughout the city.~~

**Sec. 2-157. – Plan development; Approval, authority.**

- (a) The records management officer ~~and the records management committee~~ shall develop a records management plan for the city 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 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 duties prescribed by state law and this article 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 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 article 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.

**Sec. 2-162. - Records control schedules—Development; 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 city 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 records management officer. ~~and the members of the records management committee.~~
- (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.

(Code 1961, § 2-19.6); **State Law reference—** Retention periods, V.T.C.A., Local Government Code § 203.042.

**Sec. 2-163. - Same—Implementation; destruction of records under schedule.**

- (a) A records control schedule for a department that has been approved and adopted under section 2-157 shall be implemented by department heads and records liaison officers according to the policies and procedures for 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 lawsuit, or the department head requests in writing to the records management officer ~~committee~~ 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 from ~~by~~ the records management officer ~~from the records management committee.~~

(Code 1961, § 2-19.7)

II.

THAT all provisions hereof are hereby declared to be severable and if any provisions hereof are declared to be invalid or unconstitutional, such shall not invalidate or affect the remaining provisions hereof which will be and remain in full force and effect.

III.

This ordinance shall become adopted and effective upon its second reading, signature required by City Charter, and filing with the City Secretary's Office.

PASSED AND APPROVED: First reading this 27<sup>th</sup> day of June 2022.

PASSED AND APPROVED: Second reading this \_\_\_\_\_ day of July 2022.

CITY OF NEW BRAUNFELS, TEXAS

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RUSTY BROCKMAN, MAYOR

ATTEST:

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GAYLE WILKINSON, CITY SECRETARY

APPROVED AS TO FORM:

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VALERIA M. ACEVEDO, CITY ATTORNEY