

## **AN ORDINANCE**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH AMENDING THE AUDIOVISUAL RETENTION PERIOD IDENTIFIED IN SECTION 8 (3) THE CITY'S CODE OF ORDINANCES CHAPTER 1, GENERAL PROVISIONS, ARTICLE 1.05 RECORDS MANAGEMENT; PROVIDING FOR SEVERABILITY AND REPEAL CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, Title 6, 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 Fair Oaks Ranch recognizes that review and amendment of current practices is warranted; and

**WHEREAS**, the City of Fair Oaks Ranch amended the Records Management Ordinance on October 21, 2022; and

**WHEREAS**, the City of Fair Oaks Ranch placed a temporary retention period for audiovisual materials of 90 days pending additional data storage information; and

**WHEREAS**, the City of Fair Oaks Ranch desires to amend its ordinance for that purpose and to prescribe policies consistent with the Local Government Records Act and in the interests of cost-effective and efficient recordkeeping.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS:**

PART 1. Chapter 1 "General Provisions" Article 1.05 "Records Management" is hereby amended as set forth in the attached **"Exhibit A"**.

PART 2. That the recitals contained in the preamble hereto are hereby found to be true and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

PART 3. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance be severable, and, if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared invalid by judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Ordinance and the remainder of this Ordinance shall be enforced as written.

PART 4. That it is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

PART 5. This Ordinance shall take effect on December 15, 2022, after its second reading and after passage.

PART 6. The repeal or amendment of any ordinance or part of ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue or as affecting any rights of the City of Fair Oaks Ranch under any section or provisions of any ordinances in effect at the time of passage of this Ordinance.

PART 7. The provisions of this Ordinance shall be cumulative of all ordinances not repealed by this Ordinance and ordinances governing or regulating the same subject matter as that covered herein.

**PASSED and APPROVED** on first reading this the 1st day of December, 2022.

**PASSED, APPROVED and ADOPTED** on second reading this the 15<sup>th</sup> day of December, 2022.

ATTEST:

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Gregory C. Maxton, Mayor

APPROVED AS TO FORM:

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Christina Picioccio, TRMC, City Secretary

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Denton Navarro Rocha Bernal & Zech, P.C.,  
City Attorney

## **Exhibit A**

Chapter 1 "General Provisions" Article 1.05 "Records Management" is hereby amended as follows:

### **SECTION 1. DEFINITION OF MUNICIPAL RECORDS.**

All documents, papers, letters, books, maps, photographs, sound or video recordings, 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 Fair Oaks Ranch 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 Fair Oaks Ranch 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 Fair Oaks Ranch that creates or receives records.
- (2) "Essential Record" means any record of the City of Fair Oaks Ranch necessary to the resumption or continuation of its operations in an emergency or disaster, to the recreation of the legal and financial status of the City of Fair Oaks Ranch, or to the protection and fulfillment of obligations to the people of the state.
- (3) "Permanent Record" means any record of the City of Fair Oaks Ranch 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 Fair Oaks Ranch, 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 Section 1 of this ordinance are hereby declared to be the property of the City of Fair Oaks Ranch. 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 Fair Oaks Ranch 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 the management of records from their 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 Secretary, and the successive holders of said office, shall serve as Records Management Officer for the City of Fair Oaks Ranch. 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. RECORDS MANAGEMENT PLAN TO BE DEVELOPED; AUTHORITY OF PLAN.**

- (1) The Records Management Officer shall develop a records management plan for the City of Fair Oaks Ranch. The plan must contain policies and procedures designed to reduce the costs and improve the efficiency of record keeping, to adequately protect the essential records of the municipality, and to properly preserve those records of the municipality 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.
- (2) The records management plan shall be binding on all offices, departments, divisions, programs, commissions, bureaus, boards, committees, or similar entities of the City of Fair Oaks Ranch and records shall be created, maintained, stored, or disposed of in accordance with the plan.
- (3) The Records Management Officer shall develop plans that encompass the duties and responsibilities of department heads and delegated employees to work in conjunction with the Records Management Officer in the performance of records control.
- (4) State law relating to the duties, other responsibilities, or record keeping 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 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 Fair Oaks Ranch.

**SECTION 7. ADOPTION OF STATE RECORDS CONTROL SCHEDULES; APPROVAL; FILING WITH STATE.**

- (1) In lieu of filing records control schedules, the City of Fair Oaks Ranch has adopted record control schedules issued by the Texas State Library and Archives Commission. A declaration of compliance with the records scheduling requirement of the Local Government Records Act shall be filed with the Texas State Library and Archives Commission by the records management officer (Form SLR 508).

**SECTION 8. IMPLEMENTATION OF RECORDS CONTROL SCHEDULES; DESTRUCTION OF RECORDS UNDER SCHEDULE.**

- (1) A records control schedule for a department that has been approved and adopted under Section 7 shall be implemented by department heads according to the policies and procedures of the records management plan.
- (2) 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 that the record be retained for an additional period.
- (3) The City Council identifies that the following records be kept beyond the state retention period:

<u>Record Number</u>	<u>Record Title</u>	<u>Record Description</u>	<u>New Retention Period</u>
GR 1000-01a	Agendas	Open Meetings 1. If the minutes describe each matter considered by the governing body and reference to an agenda is not required.	10 Years
GR 1000-03g	Minutes (Agenda Packets)	Supporting documentation – One copy of each document of any type submitted to a meeting of a governing body for consideration, approval, or other action; if such action is reflected in the minutes of the meeting.	10 Years
GR 1000-03e	Minutes (Recordings)	Audio-only recordings of open meetings for which written minutes are prepared.	6 Years
GR 1000-03e	Minutes (Recordings)	Audiovisual recordings of open meetings for which written minutes are prepared.	<del>90 Days</del> 6 Years

**SECTION 9. DESTRUCTION OF UNSCHEDULED RECORDS.**

In order to destroy records that do not appear on schedules issued by the Texas State Library and Archives Commission and that have not been added by a filed supplemental records control schedule, a request for authorization to destroy unscheduled records (SLR 501) must be filed with the Texas State Library and Archives Commission.

**SECTION 10. RECORDS CENTER.**

A records center, developed pursuant to the plan required by Section 6, shall be under the direct control and supervision of the Records Management Officer. Policies and procedures regulating the operation and use of the records center shall be contained in the records management plan developed under Section 6.