

ORDINANCE

(Motion was made by DIANNE BUTLER, seconded by EDWARD ARNSWORTH that the following ordinance be passed.)

ORDINANCE NO. 1993 - 1

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, PROVIDING FOR THE ESTABLISHMENT AND ADMINISTRATION OF A RECORDS MANAGEMENT PROGRAM FOR THE CITY; PROVIDING FOR PURPOSE OF RECORDS MANAGEMENT PROGRAM; AUTHORIZING THE CITY SECRETARY TO ESTABLISH AND ADMINISTER THE RECORDS MANAGEMENT OFFICE FOR THE CITY; PROVIDING DEFINITIONS FOR RECORDS MANAGEMENT PROGRAM; PROVIDING RECORDS MANAGEMENT DUTIES FOR THE CITY SECRETARY, CITY COUNCIL, AND MUNICIPAL RECORDS, AND THE RESPONSIBILITIES OF OFFICERS AND EMPLOYEES WITH RESPECT THERETO; PROVIDING FOR THE DESTRUCTION, OR OTHER DISPOSITION OF ORIGINAL MUNICIPAL PUBLIC RECORDS AND ALL OTHER MUNICIPAL RECORDS; PROVIDING A PENALTY CLAUSE; PROVIDING REPEALING AN SEVERABILITY CLAUSES; AND PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FULL FORCE ON AND AFTER THE 1ST DAY OR NOVEMBER, 1991.

WHEREAS State law through the Texas Local Government Records Act, enacted by the State Legislature in 1989 under the Title H. B. 1285, as amended from time to time, hereafter referred to as the "Act," provides that each governing body in local government shall designate a Records Management Officer; and

WHEREAS the City of Montgomery in conformity with said Act desires to establish, promote and support an active and continuing program for the efficient and economical management of all City of Montgomery records and cause policies and procedures to be developed for the administration of the program under the direction of the Records Management Officer;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY:

ARTICLE I

That the governing body of the City of Montgomery, does hereby establish and adopt a management program for the orderly and efficient retention, retrieval and destruction of the records of the City of Montgomery, as follows:

SECTION 1. DEFINITIONS:

Local Government Record. Any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, 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 local City government offices or any of its officers or employees pursuant to law, including an ordinance, or in the transaction of public business are hereby declared to be records of the City of Montgomery and shall be created, maintained, and disposed of in accordance with the provisions of this Ordinance and the provisions of the Act. The term does not include:

- A. Extra identical copies of documents created only for convenience of reference or research by officers or employees of the City of Montgomery.
- B. Notes, journals, diaries, and similar documents created by an officer or employee of Montgomery for the officer or employee's personal convenience.
- C. Blank forms;
- D. Stocks of publication;
- E. Library and museum materials acquired solely for the purposes of

reference or display; or

- F. Copies of documents in any media furnished to members of the public to which they are entitled under Article 6252-17a, Vernon's Texas Civil Statutes or other State law.

Commission. The Texas State Library and Archives Commission.

Custodian. 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. For the purpose of this Ordinance, a custodian is a Department Head, under the administration of the City Council, who is responsible for all records in his/her department.

Director and Librarian. The executive and administrative officer of the Texas State Library and Archives Commission.

Essential Record. Any local government record necessary to the resumption or continuation of government operations 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.

Governing Body. The City Council of the City of Montgomery.

Office. Any office, department, division, program, commission, bureau, board, committee, or similar entity of the City of Montgomery.

Permanent Record. A record of permanent value. Any local government record for which the retention period on a records retention schedule issued by the Commission is given as permanent.

Record. A record of the City of Montgomery.

Records Control Schedule. A document prepared by or under the authority of a Records Management Officer listing the records maintained by the City of Montgomery, their retention periods, and other records disposition information that the records management program in Montgomery or State law may require.

Records Management. 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 record keeping. 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.

Records Retention Schedule. A document issued by the Commission establishing mandatory retention periods for local government records.

Retention Period. 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 2. ESTABLISHMENT AND ADMINISTRATION OF RECORDS MANAGEMENT PROGRAM.

That the Office of City Secretary is authorized to establish and administer the Records Management Program for the City of Montgomery, pursuant to legal, fiscal, administrative, and archival requirements and the City Secretary or his/her designee is hereby named Records Management Officer. That to this end, the City Secretary will implement, but not be limited

to, a program to encompass such areas of records management as are required to preserve and keep in order all books, papers, documents, records and files of the City Council and of the executive departments to achieve the following goals:

1. Release space and reduce the need for filing equipment;
2. Establish an efficient retrieval operation for both active and inactive municipal records;
3. Provide for routine disposition of paperwork;
4. Maintain total security over municipal records;
5. Communicate the need of an effective Records Management Program; and,
6. Secure a central records storage facility which can be operated and maintained by records management staff.

SECTION 3. PURPOSE OF RECORDS MANAGEMENT PROGRAM

"That this Ordinance shall be known and may be cited as the "Records Management Program of the City of Montgomery," providing for the proper and efficient management of the municipal records of the City of Montgomery. Since the citizens of Montgomery, Texas have a right to expect efficient and cost-effective government and recognizing the importance of local government records in the lives of all citizens, the efficient management of City records is necessary to the effective and economic operation of the City, the preservation of records of permanent value is necessary to provide the people of the State with resources concerning their history and to document their rights of citizenship and property, and the establishment of uniform standards and procedures for the maintenance, preservation, microfilming, or other disposition of City records is necessary to fulfill the higher public purpose.

SECTION 4. CITY RECORDS DECLARED PUBLIC PROPERTY

All City records as defined in Sec. 1 herein are hereby declared to be property of the City of Montgomery. No City 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 5. POLICY

It is hereby declared to be the policy of the City of Montgomery to provide for efficient, economical, and effective controls over the creation, distribution, organization, maintenance, use, and disposition of all City records through a comprehensive system of integrated procedures for the management of records from their creation to their ultimate disposition.

SECTION 6. DUTIES OF RECORDS MANAGEMENT OFFICER

The Records Management Officer shall have the following duties, and others as assigned by the City Council and as provided by State law:

1. Assist in establishing and developing policies and procedures for a Records Management Program for the City, which program shall include basic files management and records disposition policies, systems, standards and procedures;
2. Administer the Records Management Program and provide assistance to custodians for the purposes of reducing the costs and improving the efficiency of record keeping;
3. In cooperation with the custodians of the records:
 - (a) Prepare and file with the director and librarian before January 2, 1995,

the records control schedules and the list of obsolete records, required by the Act;

(b) Prepare and file with the director and librarian amended schedules as needed to reflect new records created or received by the City;

(c) Prepare or direct the preparation of requests for authorization to destroy records not on an approved control schedule as provided by the Act, of requests to destroy the originals of permanent records that have been microfilmed, and of electronic storage authorization requests;

4. In cooperation with custodians, identify and take adequate steps to preserve City records that are of permanent value;
5. In cooperation with custodians, identify and take adequate steps to protect essential City records;
6. In cooperation with custodians, ensure that the maintenance, preservation, microfilming, destruction of records is carried out in accordance with the policies and procedures of the City's Records Management Program and requirements of State law;
7. Report annually to the City Council on program effectiveness;
8. Provide records management advice and assistance to all City offices and departments, by preparation of manuals of procedure and policies and by on-site consultation;
9. Carry out destruction and transfers that are required by records schedules, and carry out microphotography tasks when staff and central facility becomes available;

10. Design and manage the operations of a Records Center for the low cost storage of inactive records and as a future site for a centralized micrographics program;
11. Develop a City wide forms design and control system;
12. Establish in cooperation with other responsible City officials a disaster plan for each City office and department to insure maximum availability of records for re-establishing operations quickly and with minimum disruption and expense;
13. Bring to the attention of the City Council any office not in compliance with laws or ordinances regarding public access to information or protection of privacy;
14. Disseminate to the City Council and custodians information concerning State laws, administrative rules, and the policies of the City relating to local government records through a records manual which may be amended from time to time and other means of communication; and,
15. In cooperation with custodians, establish procedures to ensure that the handling of records in any context of the Records Management Program by the Records Management Officer or those under the Officer's authority is carried out with due regard for the duties and responsibilities of custodians that may be imposed by law and the confidentiality of information in records to which access is restricted by law.

SECTION 7. DUTIES AND RESPONSIBILITIES OF THE CITY COUNCIL

The City Council shall:

1. Establish, promote, and support an active and continuing program for the efficient and economical management of all City of Montgomery records;

2. Cause policies and procedures to be developed for the administration of the program under the direction of the Records Management Officer;
3. Facilitate the creation and maintenance of City records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the City and designed to furnish the information necessary to protect the legal and financial rights of the City, the State, and persons affected by the activities of the City government;
4. Facilitate the identification and preservation of City records that are of permanent value;
5. Facilitate the identification and protection of essential City records;
6. Cooperate with the Commission in its conduct of Statewide records management surveys; and,
7. Review of a records control schedule or amended schedule by the officers of the City as it considers necessary.

SECTION 8. DUTIES AND RESPONSIBILITIES OF CUSTODIANS

- A. Custodians of records in the City shall:
 1. Cooperate with the Records Management Officer in carrying out the policies and procedures established by the local government for the efficient and economical management of records and in carrying out requirements under the Act;
 2. Adequately document the transaction of City business and the services, programs, and duties for which the custodian and the custodian's staff are responsible;

3. Maintain the records in the custodian's care and carry out their preservation, microfilming, destruction, or other disposition only in accordance with the policies and procedures of the City's Record Management program and the requirements of the Act and rules adopted thereunder; and
4. Designate records officers within their offices and provide the Records Management Officer the names of the designees and all persons working under their supervision, such records officers to report directly to the custodian in their department on matters relating to the Records Management Program and have full access to all files in their respective departments.

B. State law relating to the duties, other responsibilities, or record keeping requirements of a custodian of local government records does not exempt the custodian or the records in the custodian's care from the application of this Ordinance and rules adopted by the State under the Local Government Records Act of 1989 and may not be used by the custodian as a basis for refusal to participate in the City of Montgomery Records Management Program, the establishment of which is required by State Law.

SECTION 9. MICROFILMING OF RECORDS

For the benefit of this section, "microfilm" means roll microfilm, microfiche, and all other formats produced by any method of microphotography or other means of miniaturization on film.

For the benefit of this section, "microfilming" means the methods, procedures, and processes used to produce roll microfilm, microfiche, or other microphotographic formats.

All microfilming activities by custodians must be carried out on or after April 1, 1990, under rules established by the Commission which rules will establish standards and procedures for the microfilming of City records under Chapter 204 of the Act. All microfilm produced before June 1, 1990, under law prior to the Act is validated to the extent the microfilm was produced in the manner and according to the standards prescribed by prior law.

All City of Montgomery procedures and materials used for microfilm and microfilming City records shall be done and acquired under the aegis of State law, and the City will be subject to all the law, rules, standards and procedures as outlined in the Act.

SECTION 10. ELECTRONIC STORAGE OF RECORDS

For the purpose of this section, "electronic storage" means the maintenance of local government record data in the form of digital electronic signals on a computer hard disk, magnetic tape, optical disk, or similar machine-readable medium.

For the purpose of this section, "source document" means the local government record from which local government record data is obtained for electronic storage. The term does not include backup copies of the data in any media generated from electronic storage.

Any City record data may be stored electronically in addition to or instead of source documents in paper or other media, subject to the requirements of the Act and rules adopted under it.

The City will be subject to rules established by the Commission for standards and procedures for electronic storage and will be subject to the provisions of Chapter 205 of the Act".

ARTICLE II

Upon the adoption of this Ordinance, the City Secretary is directed to file with the

director and librarian within thirty (30) days the name and office of the Records Management Officer of the City and a copy of this Ordinance which establishes the Records Management Program of the City of Montgomery.

ARTICLE III

Any individual, association or corporation violating any portion or provision of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be punished by the assessment of a fine not exceeding \$500.00, and a separate offense shall be deemed committed upon each day during on or which a violation occurs or continues.

ARTICLE IV


All ordinances or parts of ordinances in direct conflict herewith are repealed to the extent of conflict only.

ARTICLE V

Should any section, subsection, sentence, provision, clause or phrase hereof be held to be invalid, void or unconstitutional, for any reason, such holding shall not render invalid, void, or unconstitutional any other sections, subsection, sentence, provision, clause or phrase of this ordinance, and the same are deemed severable for this purpose.

ARTICLE VI

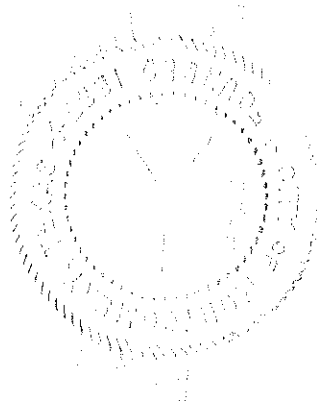
This Ordinance shall take effect and be in full force on and after the 5th day of October, 1993, AND IT IS SO ORDAINED.



Mayor

ATTEST:

Carol S. Langley
City Secretary



APPROVED AS TO FORM;

[Signature]
City Attorney