ORDINANCE NO. 2007-11-13-001

AN ORDINANCE FOR THE CITY OF KEMPNER, TEXAS PROVIDING FOR A CONTINUING RECORDS MANAGEMENT PROGRAM (LOCAL GOVERNMENT RECORDS ACT, TITLE 6, SUBTITLE C).

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 KEMPNER desires to adopt an ordinance 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 BY THE CITY COUNCIL OF CITY OF KEMPNER:

SECTION 1. DEFINITION OF MUNICIPAL 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 CITY OF KEMPNER 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 KEMPNER 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 KEMPNER that creates or receives records

(2) "Essential record" means any record of the CITY OF KEMPNER necessary to the resumption or continuation of its operations in an emergency or disaster, to the re-creation of its legal and financial status, or to the protection and fulfillment of obligations to the people of the state.

(3) "Permanent record" means any record of the CITY OF KEMPNER 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

1

KEMPNER, 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 KEMPNER. 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 KEMPNER 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 their management from 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 KEMPNER. 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; APPROVAL OF PLAN; AUTHORITY OF PLAN.

(a) The Records Management Officer shall develop a records management plan for the CITY OF KEMPNER 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 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.

(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 OF KEMPNER 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 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 KEMPNER.

SECTION 7. DUTIES OF RECORDS MANAGEMENT OFFICER.

In addition to other duties assigned in this ordinance, 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 municipal 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 city;
(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 CITY OF KEMPNER;
(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 municipality's records control schedules are in compliance with state regulations;

3

(8) disseminate to the CITY COUNCIL and department heads information concerning state laws and administrative rules relating to local government records;

(9) ensure that the maintenance, preservation, microfilming, destruction, or other disposition of the records of the CITY OF KEMPNER are carried out in accordance with the policies and procedures of the records management program and the requirements of state law;

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

(11) report annually to the CITY COUNCIL on the implementation of the records management plan in each department of the CITY OF KEMPNER, including summaries of the statistical and fiscal data compiled under Subsection (10); and

(12) bring to the attention of the CITY COUNCIL non-compliance by department heads or other municipal personnel with the policies and procedures of the records management program or the Local Government Records Act.

SECTION 8. DUTIES AND RESPONSIBILITIES OF DEPARTMENT HEADS.

In addition to other duties assigned in this ordinance, department heads shall:

(1) cooperate with the Records Management Officer in carrying out the policies and procedures established in the CITY OF KEMPNER for the efficient and economical management of records and in carrying out the requirements of this ordinance;

(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 CITY OF KEMPNER and the requirements of this ordinance.

SECTION 9. RECORDS CONTROL SCHEDULES TO BE DEVELOPED; APPROVAL; FILING WITH STATE.

(a) The Records Management Officer, in cooperation with department heads, shall prepare records control schedules on a department by department basis listing all records series created or received by the department and the retention period for each series. Records control schedules shall also contain such other information regarding the disposition of municipal 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 OF KEMPNER.

(c) Before its adoption a records control schedule or amended schedule for a department must be approved by the department head and the CITY COUNCIL.

(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 10. 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 9 shall be implemented by department heads 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 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 the destruction must be obtained by the Records Management Officer from the CITY COUNCIL.

SECTION 11. 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 an approved destruction authorization request.

SECTION 12. SEVERABILITY.

If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications hereof which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 13. EFFECTIVE DATE.

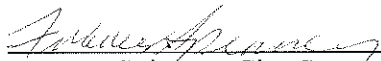This ordinance shall take effect immediately from and after its passage and signature by the Mayor.

SECTION 14. OPEN MEETINGS.

That it is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapt. 551, Loc. Gov't. Code.

PASSED AND APPROVED   **on this 13th day of November, 2007.**

ATTEST: **THE CITY OF KEMPNER, TEXAS**

Frances Spinney, City Secretary   Gene Isenhour, Mayor