

ORDINANCE NO. 97-5034

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY ADDING CERTAIN SECTIONS; PROVIDING FOR THE ESTABLISHMENT OF RECORDS MANAGEMENT AS AN ADMINISTRATIVE FUNCTION, STATING THE INTENT OF THE PROGRAM, DESIGNATING A RECORDS MANAGER, ESTABLISHING THE PROGRAM AND REPORTING RELATIONSHIPS, AND CREATING AN INTERNAL RECORDS ADVISORY COMMITTEE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

**ARTICLE I. RECORDS MANAGEMENT**

DIVISION 1. GENERALLY

**Section 1. Definitions.**

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:

*Active Record* shall mean a record that is referenced or used on a regular basis; a frequently used record that needs to be available for immediate access by users.

*Administrative Value* shall mean the value attributed to a record series to the creating office in the performance of its assigned operations within the city; the period of time a record may be needed within the organization for administrative or operational purposes.

*Archives* shall mean those official records, which have been determined by the Records Manager and the Records Advisory Committee to have sufficient historical or other value to warrant their continued preservation by the city.

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*City Records* shall mean 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 city or any of its officers or employees pursuant to law or in the transaction of public business which are hereby declared to be the records of the city 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.

*Department Head* shall mean the officer or employee who by administrative appointment is in charge of an office of the city that creates or receives records.

*Fiscal Value* shall mean the value attributed to a record series, which documents financial transactions; the period of time a record must be retained for financial reasons or for tax/audit requirements.

*Historical Value* shall mean the value attributed to a record series, which completes the picture of the city's accomplishments and will aid future researchers with an interest in the organization or prominent individuals within the organization.

*Inactive Record* shall mean a record that is referenced or used fewer than ten (10) times annually; a record that does not need to be immediately available, but must be retained for legal reasons or because users have an infrequent need to access it and it has not yet met its retention period.

*Legal Value* shall mean the value attributed to a record series, which documents business ownership, agreements, and transactions; the period of time a record must be retained to meet statutory requirements or other legal reasons.

*Non-Record* shall mean those materials such as reference books, exhibit materials, etc. created or acquired and preserved solely for reference use or exhibition purposes; extra copies of documents preserved only for convenience or reference, and stocks of publications, and shall not be included within the definition of city records as used in this ordinance.

*Permanent Record* shall mean any record of the city for which the retention period on a records retention schedule is given as permanent and may not be destroyed.

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*Records Advisory Committee* shall mean the committee established in Section 6.

*Records Custodian* shall mean any individual responsible for the proper filing, storage, or safekeeping of any public records.

*Records Coordinators* shall mean the persons designated under Section 10.

*Records Management* shall mean 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 retention schedules, the management of filing and information retrieval systems, the protection of vital records, the preservation of 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. It is the systematic control of an organization's records from their creation or receipt to their ultimate preservation or destruction.

*Records Management Program* shall mean the plan developed under Sections 12 - 18.

*Records Manager* shall mean the person designated in Section 7.

*Records Retention Schedule* shall mean a document prepared by or under the authority of the City Administrator, listing the records maintained by the city, their retention periods and other records disposition information that the records management program may require.

*Record Series* shall mean a group of similar or related records, used or filed as a unit.

*Replevin* shall mean the recovery by a person of records claimed to be his, on his promise to test the matter in court and give the records up again if defeated.

*Retention Period* shall mean 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.

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*Vital Record* shall mean 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, and to the protection and fulfillment of obligations to the employees and customers of the city.

### Section 2. **City records declared public property.**

All municipal records are hereby declared to be the property of the city. No city official or employee has, by virtue of his position, any personal or property right to such records even though he may have developed or compiled them. The unauthorized destruction, removal from files or use of such records is prohibited. Any custodian of any public records shall, at the expiration of his appointment or employment, deliver to a successor, or if there be none, to the City Administrator, all books, writings, letters, documents, public information or other information, recorded on any medium, created, kept or received in the transaction of official business.

### Section 3. **Policy.**

It is hereby declared to be the policy of the city 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, consistent with the requirements of the State of Montana.

### Section 4. **Public access to records.**

The methods and procedures governing the availability, location and nature of those records of the city subject to Montana's public records statutes shall be set forth by Administrative Order.

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## DIVISION 2. ADMINISTRATION

### Section 5. **Records Management Program established.**

There is hereby established a records management program. The City Administrator is responsible for directing the program and the City Clerk shall coordinate records management operations among the city offices and departments.

### Section 6. **Establishment and duties of Records Advisory Committee.**

A Records Advisory Committee consisting of the City Administrator or his designee, the City Attorney, the City Clerk, the Finance Director and the Information Resources Director is hereby established. The committee shall:

- 1) Assist the Records Manager 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 retention schedules submitted by the Records Manager.
- 4) Give final approval to the destruction of records in accordance with the approved records retention schedules.
- 5) Actively support and promote the records management program throughout the city.

### Section 7. **Designation of Records Manager.**

The City Clerk is designated as the city Records Manager, shall administer the records management program and be responsible for citywide files management and the direction and control of the city's records disposition program. The City Clerk/Records Manager shall report to and be responsible to the City Administrator in the same manner as other department heads.

Ordinance No. 97-503A**Section 8. Duties and responsibilities of Records Manager.**

In addition to other duties assigned in this article, the Records Manager 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, prepare and update retention schedules, identify vital and permanent records and develop a disaster plan for each city office and department to ensure maximum availability of the records in order to reestablish operations quickly and with minimum disruption and expense.
- 4) Review retention schedules annually and update or amend as needed.
- 5) Develop procedures to ensure the permanent preservation of the historically valuable records of the city.
- 6) Provide records management advice and assistance to all city departments by preparation of a manual(s) of procedure and policy and by on-site consultation.
- 7) Monitor records retention schedules and administrative rules issued by the State of Montana to determine if the records management program and the city's records retention schedules are in compliance with state regulations.
- 8) Instruct records coordinators and other personnel in policies and procedures of the records management program and their duties in the program.
- 9) Direct records coordinators or other personnel in the conduct of records inventories and in preparation for the development or updating of records retention schedules.
- 10) Ensure that the maintenance, preservation, destruction or other disposition of the city is carried out in accordance with the policies and procedures of the records management program and the requirements of state law.
- 11) Report annually to the City Administrator on the compliance and effectiveness of the program in each city department. Bring to the attention of the City Administrator noncompliance by department heads or other city personnel with the policies and procedures of the records management program.

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- 12) Maintain records on the volume and identity of records destroyed under the approved records retention schedules.

**Section 9. Duties and responsibilities of Department Heads.**

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

- 1) Cooperate with the Records Manager in carrying out the policies and procedures established by the city 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 head and his staff are responsible.
- 3) Maintain the records in his care and carry out their preservation, destruction or other disposition only in accordance with the policies and procedures of the records management program of the city and the requirements of this article.
- 4) Designate a member of his staff to serve as records coordinator for the implementation of the records management program in the department.

**Section 10. Designation of Records Coordinators.**

Each Department Head shall designate a member of his staff to serve as Records Coordinator for the implementation of the records management program in the department. If the Records Manager determines that in the best interests of the records management program more than one records coordinator should be designated for a department, the Department Head shall designate the number of Records Coordinators specified by the Records Manager. Persons designated as Records Coordinators shall be thoroughly familiar with all records created and maintained by the department and shall have full access to all records of the city maintained by the department. In the event of the resignation, retirement, dismissal or removal of a person designated as a Records Coordinator, the Department Head shall promptly designate another person to fill the vacancy. A Department Head may serve as Records Coordinator for his department.

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**Section 11. Duties and responsibilities of Records Coordinators.**

In addition to other duties assigned in this article, Records Coordinators shall:

- 1) In cooperation with the Records Manager, conduct inventories of the records of the department in preparation for the development or updating of records retention schedules.
- 2) In cooperation with the Records Manager, coordinate and implement the policies and procedures of the records management program in their departments.
- 3) In cooperation with the Records Manager, disseminate information to departmental staff concerning the records management program.
- 4) When necessary, advise the Records Manager of the obsolescence of records, the creation of new records series, and/or the need for amendments to departmental retention schedules.

**DIVISION 3. PROGRAM**

**Section 12. Development, approval authority of program.**

(a) The Records Manager and the Records Advisory Committee shall develop a records management program for the city, for submission to the City Administrator. The program must contain policies and procedures designed to reduce the costs and improve the efficiency of recordkeeping, to adequately protect the vital records of the city, and to properly preserve those records of the city that are of historical value. The program must be designed to enable the Records Manager to carry out his/her duties prescribed by state law and this article effectively.

(b) Once approved by the City Administrator, the Records Management Program shall be binding on all offices, departments, divisions, programs, bureaus, boards, commissions, committees, or similar entities of the city and records shall be created, maintained, and disposed of in accordance with the program.



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**Section 13. Records retention schedules to be developed, reviewed, and approved.**

(a) The Records Manager, in cooperation with Department Heads and Records Coordinators, shall prepare records retention schedules on a department by department basis, listing all records created or received by the department and the retention period for each record. Records retention schedules shall also contain such other information regarding the disposition of city records as the records management program may require.

(b) Each records retention schedule shall be monitored and amended as needed by the Records Manager 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 retention schedule or an amended schedule for a department must be approved by the Department Head and the members of the Records Advisory Committee. New retention periods to be included in records schedules shall be submitted by the Department Head to the Records Manager. The Records Manager shall notify the Records Advisory Committee of the request. The committee will act on the request within fifteen (15) working days. The Records Manager will notify the Department Head of the committee's determination.

(d) Before its adoption, a records retention schedule must be submitted to and reviewed by the State Local Government Records Committee, as provided by state law. The Records Manager shall submit the records retention schedules to the State Local Government Records Committee for review.

(e) Upon successful review by the State Local Government Records Committee, adoption of the initial records retention schedules (dated July 28, 1997) shall be via City Council resolution.

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**Section 14. Implementation of records retention schedules; destruction of records under schedules.**

(a) A records retention schedule for a department that has been approved and adopted under Section 13, shall be implemented by Department Heads and Records Coordinators according to the policies and procedures of the records management plan.

(b) A record whose retention period has expired according to a records retention schedule may 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 Advisory Committee via the Records Manager that the record be retained for an additional specified period of time.

(c) Prior to the destruction of any record under an approved records retention schedule, authorization for the destruction must be obtained by the Records Manager from the Records Advisory Committee first, before submitting the request to the State Local Government Records Destruction Subcommittee for review and authorization.

(d) Records no longer required in the conduct of current business by any office of the city, shall be promptly transferred to inactive storage, or be destroyed at the time such action is designated on an approved records retention schedule and as authorized in subsection (c). Such records shall not be maintained in current, active office files or equipment.

**Section 15. Destruction of unscheduled records.**

A record that has not yet been listed on an approved records retention schedule may be destroyed if its destruction has been approved in the same manner as a record may be destroyed under an approved records retention schedule and the Records Manager has submitted to and received back from the State Local Government Records Destruction Subcommittee, an approved destruction authorization request.

Ordinance No. 97-5034**Section 16. Preservation of permanent records.**

The Records Manager shall develop procedures to insure the permanent preservation of historically valuable records of the city. This shall include providing proper housing (i.e. placing in an approved archives) such records in a municipal facility and in such manner that the records, unless their use is restricted by law or regulation, are open to the public for research purposes. If city-owned facilities are not available, the records manager shall arrange for the transfer of the records to an appropriate facility for perpetual care and preservation or shall make other arrangements for their permanent preservation not contrary to law or regulation. In no circumstances, shall the permanent records of the city be transferred to private individuals or institutions.

**Section 17. Custody of records; removal.**

(a) **Active Records.** The originating department has full custody over records still in active use.

(b) **Inactive Records.** The originating department is the legal custodian of its records in storage and shall retain the authority to retrieve and use records deposited in inactive storage.

(c) **Archival Records.** Records transferred to or acquired for the archives, shall be under the full custody of the Records Manager, rather than the department which created or held them immediately prior to being transferred to the Archives.

(1) Records shall be transferred to the archives upon the recommendation of the Records Manager, with the approval of the Department Head of the department, which had custody of the records and the approval of the Records Advisory Board.

(2) Records may be removed (temporarily or permanently) from the archives, at the request of the Records Manager or the Department Head of the department which had custody of the records immediately prior to the transfer of those records to the archives, subject to the approval of the Records Advisory Board.

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**Section 18. Replevin.**

The City Attorney may take steps to recover local government records, which have been alienated from proper custody and may, when necessary, institute actions of replevin on behalf of the city.

**Section 19. Effective Date.**

This ordinance shall be effective thirty (30) days after second reading and final adoption, as provided by law.

**Section 20. Repealer.**

All resolutions, ordinances, and sections of the Billings Montana City Code inconsistent herewith are hereby repealed.

**Section 21. Severability.**

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

PASSED by the City Council on first reading this 28th day of July, 1997.

PASSED, ADOPTED AND APPROVED on second reading this 11th day of August, 1997.



CITY OF BILLINGS:

BY: Charles F. Tooley  
Charles F. Tooley                      MAYOR

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ATTEST:

BY: Marita Herold  
Marita Herold, CMC                      CITY CLERK