

## PROPOSED ORDINANCE

### COOK COUNTY RECORDS COMPLIANCE AND ARCHIVES ORDINANCE

**BE IT ORDAINED**, by the Cook County Board of Commissioners, that Chapter 2 Administration, Article V - Departments and Similar Agencies, Division 4 - Records Compliance, Sections 2-441-2-455 of the Cook County Code, is hereby established as follows:

#### **Sec. 2-441. Cook County Physical Records Compliance and Archives Ordinance.**

- (a) *Short title.* This Division shall be known and may be cited as the Cook County Physical Records Compliance and Archives Ordinance.
- (b) *Policy.* Cook County government will manage the security, retention, storage and disposition of its physical records, in all formats, in accordance with all applicable legal, regulatory and organizational requirements. Records shall be retained until the expiration of the applicable retention period and then destroyed in accordance with the Bureau of Administration, Records Management Administration (“RMA”), unless subject to a legal hold or properly archived by the Cook County Historic Records and Archives Office (“CARO”).
- (c) *Purpose.* The purpose of this Ordinance is to enhance the efficient and economical management of physical local records in the daily recordkeeping activities of Cook County government, establish a process for identification, creation and maintenance of historically significant archival material and facilitate and expedite governmental operations, in accordance with the Illinois Local Records Act, 50 ILCS 205/1 *et seq.*, the Illinois Administrative Code and other applicable laws.
- (d) *Applicability.* This Ordinance governs all Cook County Agencies. All Agencies are required to ensure that relevant County Government physical records generated by Cook County employees, for the sake of completing work related functions during employment term(s) for the County, and subject to best practices and applicable law, including procedures promulgated by RMA and CARO, are:
- (1) Retained by Cook County Government;
  - (2) Not permitted to be donated or gifted to institutions outside of the County;
  - (3) Returned to the County, if in the personal domain of a Cook County employee;
  - (4) Organized in a manner that facilitates access and retrieval;
  - (5) Stored at approved locations;
  - (6) Secured to protect sensitive and personal information from unauthorized access and disclosure;
  - (7) Preserved in permanent storage if they are required to be retained permanently;
  - (8) Maintained by employee(s) assigned as a Point of Contact and/or Historic Archives Liaison;

(9) Appropriately disposed of after they have met retention requirements and received authorization for destruction;

(e) *Conflict.* This Ordinance shall be construed so as not to conflict with applicable Federal or State laws, rules or regulations. Nothing in this Ordinance shall authorize any County agency to impose any duties or obligations in conflict with limitations on authority established by State or federal law at the time such agency action is taken. The County shall suspend enforcement of this Ordinance to the extent that said enforcement would conflict with any preemptive State or federal legislation subsequently adopted.

#### **Sec. 2-442. Definitions.**

***Agency or Agencies*** means all Elected Officials, Departments, Offices, Institutions or Agencies of the County, including but not limited to the offices and departments under the jurisdiction of the County Board President, the Board of Commissioners, Cook County Health and Hospitals System, Cook County State's Attorney, Cook County Sheriff, Cook County Public Defender, Clerk of the Circuit Court of Cook County, Cook County Treasurer, Cook County Clerk, Cook County Recorder of Deeds, Cook County Assessor, Chief Judge of the Circuit Court of Cook County, Board of Review, the Office of the Independent Inspector General, the Cook County Land Bank Authority, and the Public Administrator.

***Archival Materials*** means organically created physical records of continuing value created by a person and preserved because of the continuing value; non-record material selected, preserved, managed, presented and used or received; an Agency that collects the records of persons; a collection of archives.

***Artifact*** means an object made by a human being, typically a physical item of cultural or historical interest, not to include documents as defined in this article; a three-dimensional object held in an archive, a library or archival resource that has value as a physical object in addition to its informational value that may be preserved as records, documenting a design or function.

***Cook County Historic Archives and Records Office (CARO)*** is a division within the Office of the Secretary of the Board of Commissioners.

***Department Head*** means the creator of the record or the agency to which the record belongs. The Department Head is responsible for managing the record throughout the information lifecycle, including approving disposition.

***Digitized Electronic Material*** means **electronic material converted from print or analog form to digital form.**

***Disposition Approved*** means the authority of to dispose of records has been approved.

***Historic Archives Liaison*** means an employee in a County agency or agencies who coordinates historic archive activity relative to this ordinance and subsequent regulations. The Historic Archives Liaison may serve as the Records Management Administration Point of Contact.

***Legal Hold*** means the notification sent from a Department Head (or designee) to an employee instructing them not to dispose of documents that may be relevant to an actual or potential legal case.

***Local Record or Record*** means any physical report, form, writing, letter, memorandum, book, paper, map, photograph, microfilm, card, tape, audio or video recording, recorded information or other

documentary material pertaining to the transaction of public business, regardless of physical form or characteristics, including all media and formats other than electronic, having been prepared by or for, or having been or being used by, received by, in the possession of, or under the control of any public body, which are not part of the public record.

**Local Records Act** means the Illinois Local Records Act, 50 ILCS 205/1 et seq., a statute that requires local governments to keep public records and outlines the procedure by which public bodies may destroy records.

**Local Records Commission** means a Commission created pursuant to the Local Records Act, 50 ILCS 205/6, comprised of the President of the Cook County Board of Commissioners, the Mayor of the City of Chicago, The Cook County State's Attorney, the Cook County Comptroller, the State Archivist and the State Historian.

**Manager of Archives (MOA)** means the employee within CARO which supervises the day to day functions of the CARO Department and its employees, and is responsible for the collection and preservation of archival materials, documents, manuscripts, papers, photos, records and other material that reflect the rich history of Cook County.

**Official Record** means a complete, final, and authorized version of a record, especially the version bearing an original signature or seal; documents that may be used to distinguish records from drafts, convenience files, personal papers, and other non-records; official records are created by, received by, sanctioned by, or proceeding from an individual acting within their designated capacity.

**Personal Identifiable Information (PII)** means either of the following:

- (a) An individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted or redacted or are encrypted or redacted but the keys to unencrypt or unredact or otherwise read the name or data elements have been acquired without authorization through the breach of security:
  - (1) Social Security number
  - (2) Driver's license number or State identification card number
  - (3) Account number or credit or debit card number, or an account number or credit card number in combination with any required security code, access code, or password that would permit access to an individual's financial account
  - (4) Medical information
  - (5) Health insurance information
  - (6) Unique biometric data generated from measurements or technical analysis of human body characteristics used by the owner or licensee to authenticate an individual, such as a fingerprint, retina or iris image, or other unique physical representation or digital representation of biometric data
- (b) User name or email address, in combination with a password or security question and answer that would permit access to an online account, when either the user name or email address or password or security question and answer are not encrypted or redacted or are encrypted or redacted but the keys to unencrypt or unredact or otherwise read the data elements have been obtained through the breach of security.

"Personal information" does not include publicly available information that is lawfully made available to the general public from federal, State, or local government records.

***Point of Contact*** means a County employee assigned, within each department or agency, to coordinate with the Records Management Administration in order to ensure proper classification, retention and disposal of records, and for compliance with legal hold requirements where applicable.

***Preservation*** means a set of activities aimed at prolonging the life of a record while minimizing the physical deterioration, loss of information and making as few changes as possible.

***Records Disposal Certificate*** means a document which must be filed with the Local Records Commission before any original record may be disposed of attesting that the requirements under the Local Records Act, 50 ILCS 205/1 et seq., including the appropriate Retention Period, have been met.

***Records Management Administrator (RMA)*** means the Cook County Bureau of Administration employee that oversees and facilitates Cook County records compliance in accordance with the Illinois Local Records Act.

***Retention Schedule*** means the requirements prescribed by the Cook County Local Records Commission in accordance with the Illinois Local Records Act, 50 ILCS 205/4, defining how long agency information must be kept.

***Retention Period*** means the number of years prescribed by law for which certain records must be kept before their disposition.

***Space Allocation Committee*** means a committee created pursuant to Sec. 2-1003 of the Cook County Code of Ordinances which has the authority to assign, allocate and change the use of space in County facilities and County owned or occupied real estate.

#### **Sec. 2-443. Cook County Historic Records and Archives Office (CARO).**

- (a) The Cook County Historic Records and Archives Office-in collaboration with County Agencies and the Records Management Administrator and in accordance with the Illinois Local Records Act and other applicable laws- shall identify County records and Artifacts that can be classified as Archive Materials.
- (b) Historic Archives Liaisons shall work with their Point of Contact counterpart, if the roles are assigned to separate individuals within the agency, to identify documents, local records and records which are of historic value, as judged by CARO. Items which are transferred to CARO are not to be disposed of without State approval. Artifacts such as pictures, time capsules, building façade, etc., which are donated to CARO are not regulated by the Local Records Act and will remain in the custody of CARO.
- (c) If documents are transferred to CARO to conduct a historical evaluation, CARO, as the new records custodian on behalf of the agency, will prepare a disposal application. With historical evaluation satisfied, CARO notifies the RMA and the RMA processes the application accordingly and agency presents request at Local Records Commission meeting.
- (d) In no instance, beyond records of its own creation, is CARO to inherit any other County agency's role and responsibility for active, current recordkeeping. The Point of Contact in each County department is responsible for the documentation of the department's Archival Materials prior to depositing the Archival Materials with CARO. CARO shall be headed by the Manager of Archives, who shall report directly to the Cook County Secretary of the Board.

#### **Sec. 2-444. Role of the Manager of Archives**

The Manager of Archives shall:

- (a) Administer, supervise and monitor requirements with respect to the collection and preservation of Archival Materials under this Ordinance, including, but not limited to, inter-agency transfers of Archival Material, donations of Archival Material from external sources and post-custodial care of the Archive Materials.
- (b) Establish guidelines and policies to support the governance of the CARO archival holdings and access through the CARO office.
- (c) Work cooperatively with the Records Management Administrator as to establish documentation and methods to categorize and retrieve Archive materials as necessary.
- (d) Promulgate CARO rules and procedures which govern this section as needed.

#### **Sec. 2-445. Records Management Administrator (RMA).**

- (a) Unless otherwise stated, rules and regulations promulgated in support of County compliance with the Local Records Act shall be administered, supervised and monitored by the Records Management Administrator.
- (b) The RMA shall formulate a training program to ensure the Point of Contact and Historic Archives Liaison within each agency comply with the Local Records Act and County rules and regulations pertaining to the retention and disposition of local records and preservation of archives.

#### **Sec. 2-446. Records Media.**

- (a) *Original Format.* To preserve a record's integrity, records should generally be retained in their original format. Agencies may create and retain copies in other formats to ensure availability and readability.
- (b) *Digitized Electronic Material.* For records approved for retention in electronic format, the electronic records shall be the official record if the information is transferred into a document management system that meets the requirements prescribed by the Illinois Local Records Act.
- (c) *Other.* Agencies may adopt additional recordkeeping procedures as necessary to address specific records management issues that may exist in their functional area, subject to approval by the RMA.

#### **Sec. 2-447. Storage and Organization.**

- (a) *Storage.* Records must be stored in a location authorized by the RMA, at a temperature between 68°F/20°C to 76° F/24.4°C and a relative humidity of 35 to 55 percent.
- (b) *Organization.* Records must be stored in an organized manner to make sure they are easily accessible. Agencies shall use the standard naming conventions (Record Series) provided in the current Retention Schedule.

**Sec. 2-448. Reserved.**

**Sec. 2-449. Retention and Disposition.**

- (a) *In General.* All individuals shall ensure proper classification, retention and disposal of records in their possession, and control and comply with legal hold requirements where applicable; and are prohibited from causing, allowing, or contributing to the disposal of records in their possession and control, except with advanced written approval from the Local Records Commission.
- (b) *Retention.* All Agencies are required to ensure records are retained if they are needed for legal, regulatory or business purposes, and appropriately disposed of upon expiration of the applicable retention period, unless subject to a legal hold or archived by CARO.
- (c) *Historic Value.* Agencies in possession of any other record or Artifact believed to possess historical value, shall notify CARO and RMA to review the record or Artifact and transfer it to CARO and the appropriate storage facility. If documents are transferred to CARO to conduct an historical evaluation, CARO, as the new records custodian on behalf of the agency, will prepare a disposal application on an as needed basis.
- (d) *Disposal Certificate.*
  - (1) All Agencies are required to maintain current applications for authority to dispose of local records. On an annual basis, all Agencies are required to submit Records Disposal Certificates. Each agency shall submit to the RMA a Disposal Certificate that lists records that have met the recommended retention schedule as provided by the Local Records Commission and are no longer needed in the transaction of public business. Such records should not warrant further preservation for legal, investigatory, or historical purposes.
  - (2) CARO shall initiate an evaluation of the records comprising the disposal application for historic purposes. An agency may transfer custody of documents to CARO as needed, should removal of documents from spaces controlled by the agency be the top priority for initiating the disposal application.
  - (3) Upon approval of such Disposal Certificates by the Commission, all agencies are required to dispose of specified records within six (6) months. In furtherance of these objectives, each Department Head shall designate an employee to serve as Point of Contact to the RMA.
  - (4) The Point of Contact will assist the RMA with identifying and defining the legal, regulatory, and business requirements used to determine the applicable retention periods of the agency's records. The Point of Contact may be the agency's Legal Representative.
- (e) *Legal hold.* When a Department Head reasonably foresees or knows of litigation, or is required to preserve records that would otherwise be disposed of pursuant to the provisions of this policy to meet other business, legal, or regulatory requirements, the Department Head (or designee) shall put into place a legal hold and notify the RMA and the records should not be disposed of until the legal hold is released.

**Sec. 2-450. Confidentiality.**

Cook County shall maintain the confidentiality of Personally Identifiable Information, to the extent

required by applicable law, as described in the Personal Information Protection Act, 815 ILCS 530/30. Personal information does not include publicly available information that is lawfully made available to the general public from federal, State, or local government records.

**Sec. 2-451. Penalties.**

Any person who knowingly, without lawful authority and with the intent to defraud any party, public officer, or entity, alters, destroys, defaces, removes, or conceals any public record commits a Class 4 felony. In addition, non-compliance with this Article may result in discipline, up to and including discharge, in accordance with the County or applicable agency personnel rules and/or the applicable collective bargaining agreement. Storage of records beyond their retention period may result in chargebacks to the agency for related costs. The RMA shall have the authority to deny a request for an increase of space for the storage of records made to the Space Allocation Committee, in the event of noncompliance with this Ordinance.

**Sec. 2-452 - Sec. 2-455. Reserved.**

**Effective date:** This ordinance shall be in effect immediately upon adoption