

ORDINANCE NO. 2025-0331A

AN ORDINANCE OF THE CITY OF WILMER, TEXAS AMENDING THE CODE OF ORDINANCES, CHAPTER 1, "GENERAL PROVISIONS", ARTICLE 1.02, "ADMINISTRATION", DIVISION 2, "RECORDS MANAGEMENT", BY ADDING SECTION 1.02.047 ENTITLED "OWNERSHIP AND CUSTODY OF CITY RECORDS", AND SECTION 1.02.048, ENTITLED "ELECTRONIC STORAGE OF CITY RECORDS"; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to section 51.001 of the Texas Local Government Code, the City Council of the City of Wilmer has the authority to pass adopt, publish, amend, or repeal an ordinance, rule, or police regulation that: (1) is for the good government, peace, or order of the municipality or for the trade and commerce of the municipality; and (2) is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality.

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF WILMER, TEXAS THAT:

SECTION 1. Chapter 1, "General Provisions", Article 1.02, "Administration" Division 2. "Records Management", is hereby amended by adding Section 1.02.047, "Ownership and Custody of City Records" and Section 1.02.048, "Electronic Storage of City Records" and which shall read as follows:

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Chapter 1. GENERAL PROVISIONS

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Article 1.02. ADMINISTRATION

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Division 2. Records Management

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Sec. 1.02.047. Ownership and Custody of City Records

- a) Every city record is the property of the city. No city officer or employee has, by virtue of their position, any personal or property right to a city record even though the city officer or employee may have developed or compiled the record. The unauthorized alteration, destruction, removal from files, or use of a city record is prohibited. A city record exempted from public disclosure under state or federal law is not made subject to disclosure by its designation as city property under this section.
- b) A city record may not be sold, loaned, given away, destroyed, or otherwise alienated from the city's custody unless in accordance with the records control schedule and the provisions of this article or unless destroyed as directed by an expunction order issued by a district court pursuant to state law. This subsection does not apply to a city record that is temporarily transferred to a contractor for purposes of microfilming, duplication, conversion to electronic media, restoration, or a similar records management and preservation procedure if the transfer is authorized by the records management officer.
- c) Legal custody of a city record created or received by a department during the course of business remains with the department director or any designated successor of the department. The legal custodian, or guardian of the record, does not relinquish responsibility for the care, preservation, or legal disposition of the record even though physical custody of the record for maintenance and preservation purposes may be held by another department or agency. An original city record may not leave the custody of the department concerned when being used by a member of the public.
- d) Every officer or employee shall deliver to any successor all city records pertaining to the office held by the city officer or employee.
- e) All city records must be created, maintained, and disposed of in accordance with this article and all policies and procedures established pursuant to this article, and in no other manner.

Sec. 1.02.048. Electronic Storage of City Records

The records management officer shall coordinate the electronic storage of City records. The records management plan must establish policies and procedures for the maintenance, preservation, and storage of the electronic records of the city, including policies to ensure that all electronic storage of city records is done in accordance with the state law and the standards and procedures for electronic storage established in the rules of the Texas State Library and Archives Commission.

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SECTION 2. That all ordinances of the City of Wilmer, Texas in conflict with the provisions of this ordinance be and the same are hereby repealed and all other ordinances of the City of Wilmer, Texas not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3. If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance or application thereof to any person or circumstance is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 4. That this ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law in such cases provide.

SECTION 5. The Recitals of this Ordinance are fully incorporated herein as if fully written.

PASSED AND APPROVED this 3rd day of April 2025.

APPROVED:

By: Sheila Petta
Sheila Petta, Mayor

ATTESTED:

By: Kristin Downs
Kristin Downs, City Secretary

ATTESTED:

By: Michael B. Halla
Michael B. Halla, City Attorney

