

STATE OF GEORGIA

COUNTY OF HALL

**A RESOLUTION TO AMEND THE CODE OF ORDINANCES OF HALL COUNTY  
WITH REGARD TO RECORDS MANAGEMENT**

**WHEREAS**, Hall County has enacted an ordinance entitled “Records Management” found in Chapter 2.80 of the Official Code of Hall County, Georgia; and

**WHEREAS**, Chapter 2.80 of the Hall County, Georgia Official Code was originally enacted in 1989 and was most recently amended in 1991; and

**WHEREAS**, O.C.G.A. Section 50-18-99 contains State of Georgia requirements for records management programs for local governments, and those requirements were amended in 2002 and in 2013; and

**WHEREAS**, the Hall County Board of Commissioners wishes to revise and update its ordinances relating to Records Management in order to continue its compliance with State law, and to put in place a functioning and comprehensive records management program for County government; and

**WHEREAS**, the County faces new challenges in the area of records management and retention due to the increased use of information technology and digital and other electronic media which were not present in 1991; and

**WHEREAS**, the County faces new challenges in retaining records relating to ongoing and threatened litigation and claims which require retention of records for the life of the ongoing litigation or claim, and which can result in sanctions from courts if records and materials are not properly and assiduously retained for the life of the claim or lawsuit; and

**WHEREAS**, the County’s Board of Commissioners believes that the changes to its Code of Ordinances relating to “Records Management” will serve the best interests of Hall County, Hall County government, and Hall County residents, and will promote the public health, safety, and general welfare of the community.

**NOW, THEREFORE**, the Board of Commissioners does hereby amend the Official Code of Hall County, Georgia as follows:

1.

Chapter 2.80 of the Hall County Code of Ordinances is hereby amended by deleting said Chapter in its entirety and by inserting in lieu thereof a new Chapter 2.80 which provides as follows:

“2.80.010 – Definitions.

As used in this Chapter, the following definitions of the following terms shall be used:

*Agency* means any county office, department, division, board, bureau, commission, authority, or other separate unit of county government created or established by law or created by the County’s administration.

*Records* means all documents, papers, letters, maps, books (except books in formally organized libraries), microfilm, magnetic tape, digital records, electronic records or media maintained by the County, or other material, regardless of physical form or characteristics, made, received, or maintained pursuant to law or ordinance, or in the performance of any function by any County agency.

*Records management* means the application of management techniques to the creation, utilization, maintenance, retention, preservation, storage, and disposal of records pursuant to

O.C.G.A. § 50-18-99 (as amended) undertaken to reduce costs and improve efficiency of record keeping.

*Retention schedule* means a set of disposition instructions prescribing how long, where, and in what form a record or types of records must be maintained and/or stored, including the Local Government Record Retention Schedules published by Georgia Archives and the University System of Georgia.

#### 2.80.020 – Records Management Plan.

This Chapter shall contain and consist of the Hall County Records Management Plan pursuant to O.C.G.A. § 50-18-99 (e). The title of the officer(s) who will coordinate and perform the responsibilities of the governing body as to records management is the Clerk of the Board of Commissioners. Hall County hereby approves each and every records retention schedule proposed by Hall County agencies. As to any agency of Hall County government that does not put forth a records retention schedule pursuant to this Chapter, Hall County approves and adopts the Local Government Record Retention Schedules published by the Georgia Archives and the University System of Georgia. This Chapter shall govern the maintenance and security of records.

#### 2.80.030 – Duties of County Agencies.

Each County agency shall:

- A. Conduct an inventory of the type of records maintained by the agency and the length of time each type of record shall be maintained in the agency's offices or record-holding area based upon the legal, fiscal, administrative, and historical needs for the record.
- B. Establish a record retention schedule for each type of record maintained by the agency. In establishing its record retention schedule, each agency shall review the Local Government Record Retention Schedules ("LGRRS") published by the Georgia

Archives and the University System of Georgia and determine whether the schedules published therein are adequate to satisfy the legal, fiscal, administrative, and historical needs of the agency for each type of record. Should the agency determine that the LGRRS adequately satisfies its legal, fiscal, administrative, and historical needs for each type of record, the agency may adopt the provisions of the LGRRS or the provisions of the LGRRS that so satisfy its needs. In the absence of an expressly written records retention schedule provided to the Clerk of the County's Board of Commissioners by an agency, the County shall deem that the agency has consented to the LGRRS as its retention schedule, and shall act accordingly.

- C. Ensure ongoing compliance within that agency with its adopted records retention schedule, and establish and maintain an active and ongoing program within the agency for the safe, secure, economical, orderly, and efficient management of records.
- D. Establish necessary safeguards against the removal or loss of records and such further safeguards as may be required by the County's regulations. The safeguards shall include notification to all officials and employees of the agency that no records in the custody of the agency are to be alienated or destroyed except in accordance with this Chapter and the agency's records retention schedule.
- E. Comply fully with the County and with the Clerk for the County Board of Commissioners in complying with state law and this Chapter.
- F. Ensure that whenever the agency or its officials or employees receive a litigation hold memorandum (or other correspondence) from the County's legal counsel, that all agency records relating to the claim covered by the memorandum or correspondence are preserved for the entire pendency of the claim as instructed by the correspondence,

and are not destroyed for any reason, regardless of the normal records retention schedule requirements.

- G. Cooperate fully with the County and its administration in complying with this Chapter and implement all records management procedures and regulations issued by the County.
- H. Designate a records management officer for the agency who shall be the internal administrative contact person for the agency as to all records management issues and records requests within that agency.
- I. Ensure that pursuant to O.C.G.A. § 50-18-99 (g) and O.C.G.A. § 50-18-70 et seq., except as otherwise provided by law, or ordinance or policy adopted by the County, all records shall be open to the public or the state or any agency thereof.

#### 2.80.040 - Destruction of records.

- A. Pursuant to O.C.G.A. § 50-18-99 (c), all records created or received in the performance of a public duty or paid for by public funds are deemed to be public property and shall constitute a record of public acts.
- B. The destruction of records shall occur only through the operation of an approved retention schedule in compliance with this Chapter. Records shall not be placed in the custody of private individuals, institutions, or organizations unless specifically authorized by an approved retention schedule.
- C. Records, documents, materials, and other tangible things which are subject to a litigation hold requested and/or implemented by legal counsel shall be retained in their original form, and shall not be destroyed, until legal counsel has expressly

authorized their destruction due to the full resolution of the litigation, claim, or threatened litigation.

- D. The alienation, alteration, theft, or destruction of records by any person or persons in a manner not authorized by an applicable retention schedule is punishable as provided in Chapter 1.40.
- E. Any records designated by law as confidential shall be so treated by the County and its agencies in their maintenance, storage, and disposition. Records designated by law as confidential shall only be destroyed in such a manner that they cannot be read, interpreted, or reconstructed.

#### 2.80.050 – Access to confidential records.

A. Records that are confidential, classified, or restricted by law must generally be kept confidential by the County and its agencies.

B. Solely when permitted by law, records that are confidential, classified, or restricted by law may be used for research purposes by private researchers under the following circumstances.

1. There must be no legal impediment to using the confidential, classified, or restricted records for such purposes. The County and its agencies must abide by all requirements and restrictions of HIPAA law.

2. The researcher(s) must be fully qualified to perform the research at issue.

3. The research topic must be designed to produce a study that would be of potential benefit to the state or its citizens.

4. The researcher must agree in writing to protect the confidentiality of the information contained in the records and must agree in writing to indemnify the County and its

agencies, officials and employees from any damages incurred as a result of disclosure. Any such agreement must be drafted in such a way as to protect the purpose of the confidentiality, such as an agreement not to disclose identities of individuals, or an agreement not to divulge particular confidential or classified information.

C. The head of the agency that created, received, or maintained the records, or his or her designee, shall determine in writing whether the researcher and his or her research topic meet the qualifications set forth in this Code section prior to obtaining an agreement with the researcher and prior to disclosing, or granting permission to the researcher to use, any confidential information.

D. The use of any confidential, classified, or restricted records for research shall be a privilege. Researchers who violate the confidentiality agreement shall be subject to suit to enforce indemnity provisions, and shall also be liable for any other remedy available under law, including equity and injunction.”

**SO RESOLVED**, this the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**HALL COUNTY BOARD OF COMMISSIONERS**

By: \_\_\_\_\_  
Richard Higgins, Chairman

ATTEST:

\_\_\_\_\_(SEAL)  
Jennifer Rivera, County Clerk

APPROVED AS TO FORM:

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William J. Linkous III, County Attorney