

Chapter 2

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***Editor's note**—On June 6, 1967 the city adopted chapters 1—10, title 28, of the Revised Civil Statutes (Vernon's Ann. Civ. St. art. 961 et seq.). Pursuant to V.T.C.A., Local Government Code § 5.001, the city is now a Type A General-Law Municipality.

Cross references—Emergency management, ch. 5; fire marshal, § 6-26; administration and enforcement of flood damage prevention and protection regulations, § 7-31 et seq.; municipal court, ch. 12; oil and gas inspector, § 14-51; police, ch. 15; taxation, ch. 17.

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ARTICLE I. IN GENERAL

Secs. 2-1—2-25. Reserved.

ARTICLE II. CITY COUNCIL**Sec. 2-26. Composition; term of office.**

The council shall consist of five aldermen, elected at large, and the mayor. The term of office shall be two years. Three aldermen shall be elected in years ending with an odd number; two aldermen shall be elected in years ending with an even number. (Ord. No. 25, 2-4-1969)

Sec. 2-27. Election procedure.

(a) Each candidate for the office of alderman at large shall file his application with the city secretary to have his name printed on the official ballot.

(b) The drawing for the order of the names on the official ballot will be held at a date and place designated by the city council.

(c) The vote at any such election shall be counted separately for each candidate and the candidates receiving the highest number of votes shall be declared elected alderman at large. (Ord. No. 25, §§ 3—5, 2-4-1969)

Sec. 2-28. Place of election.

The place of the city election shall be designated by the council and so ordered by the mayor. (Ord. No. 25, § 2, 2-4-1969)

Sec. 2-29. Meetings generally.

(a) Regular meetings of the council shall be held on the second Monday of each month at 7:00 p.m. and may be recessed from time to time. If the second Monday falls on a holiday, the meeting for that day shall be held at 7:00 p.m. the next day. All official meetings of the council shall be held in public at a location specified by council.

(b) Special meetings shall be called by the city secretary on the request of the mayor or any three members of the council.
(Ord. No. 1, §§ 1, 3, 6-6-1967; Ord. No. 210, § 1, 10-1-2002)

Sec. 2-30. Conduct of meeting.

(a) *Rules of procedure.* City council meetings shall be conducted in accordance with Robert's Rules of Order, Newly Revised.

(b) *Presiding officer.* The mayor, when present, will preside over the council. In the absence or inability of the mayor, the mayor pro tem shall preside over the council, or in the absence or inability of both, a quorum being present, a temporary presiding officer may be chosen from among the councilmembers.

(c) *Order of business.* The order of business for regular council meetings shall be as follows:

- (1) Meeting called to order.
- (2) Invocation.
- (3) Pledge of allegiance.
- (4) Presentation of minutes of previous meeting.
- (5) Presentations by citizens.
- (6) Reading of ordinances.
- (7) Old business.
- (8) New business.
- (9) Adjournment.

(Ord. No. 1, §§ 5, 6, 6-6-1967)

Sec. 2-31. Document control.

No member of the council or other person shall take any papers from the secretary's office without permission, and all papers and documents withdrawn therefrom with permission shall be returned undamaged by the person withdrawing the papers.
(Ord. No. 1, § 17, 6-6-1967)

Secs. 2-32—2-50. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES**DIVISION 1. GENERALLY****Sec. 2-51. Filling municipal offices.**

All offices of the city, except members of the city council, shall be filled by appointment by the mayor, subject to confirmation by the city council.

(Ord. No. 3, § 1, 6-6-1967)

State law reference—Municipal officers, V.T.C.A., Local Government Code § 22.071.

Sec. 2-52. Secretary, tax assessor-collector duties combined.

The duties of the city secretary and the city tax assessor-collector shall be combined into a single position.

(Ord. No. 20, § 1, 10-1-1968)

State law reference—Authority, V.T.C.A., Local Government Code § 22.072.

Sec. 2-53. Duties of secretary, tax assessor-collector.

In part, the duties of the city secretary and the city tax assessor-collector shall be as follows:

- (1) The preparation, mailing, and collection of monthly water bills for the city.
- (2) The preparation and the mailing of annual tax statements, and the collection of annual taxes for the city.

(Ord. No. 21, § 3, 10-1-1968)

Sec. 2-54. Duties of treasurer.

The duties of the city treasurer shall be, in part, to:

- (1) Sign all checks for the payment of obligations incurred by the city.
- (2) Confer from time to time with the city secretary as to the financial status of the city.

(Ord. No. 21, § 4, 10-1-1968)

Sec. 2-55. Bonds.

The bond of the mayor, mayor pro tem, city secretary and city treasurer shall be set at \$5,000.00. All signatories to city accounts shall also be bonded at \$5,000.00 each.
(Ord. No. 21, § 2, 10-1-1968)

Sec. 2-56. City administrator position established.

(a) There is hereby established the office of city administrator for the city.

(b) The city administrator shall be appointed by a majority of the city council and shall serve at the will of the majority of the city council.

(c) The city administrator shall be the chief administrative, financial officer, and personnel manager of the city and shall be responsible to the mayor and the city council for formulating proposed policies which address overall problems.

(d) The city administrator shall have the authority to cause and have prepared the agenda for all city council meetings.

(e) The city administrator shall be required to submit to the mayor and city council a proposed annual operating budget for all city functions.

(f) The city administrator shall have the authority to hire and terminate employees subordinate to the level of department head in conjunction with department heads, and recommend to the mayor and city council the hiring and termination of all other appointive officers and department heads.
(Ord. No. 207, §§ 1—6, 10-8-2001)

Secs. 2-57—2-69. Reserved.

DIVISION 2. MUNICIPAL RETIREMENT SYSTEM*

Sec. 2-70. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

TMRS Act means V.T.C.A., Government Code ch. 851 et seq.

Cross reference—Definitions and rules of construction generally, § 1-3.

Sec. 2-71. Created.

The city council, on behalf of the city, hereby exercises its option and elects to have the city and all of the employees of all departments and those created participate in the Texas Municipal Retirement System as provided in the TMRS Act.

(Ord. No. 156, § 1, 1-11-1993)

Sec. 2-72. Notification to board of trustees.

The city manager is hereby directed to notify the board of trustees of the Texas Municipal Retirement System that the city has elected to participate and have the employees of the city covered in such system.

(Ord. No. 156, § 2, 1-11-1993)

***Editor's note**—Ord. No. 156, adopted January 11, 1993, did not specifically amend this Code; hence, codification of §§ 1—9 of said ordinance as §§ 2-71—2-79 herein was at the editor's discretion.



Sec. 2-73. Effective date of participation.

Each person who becomes an employee of the city on or after the effective date of participation of such city whose position shall require more than 1,000 hours per year shall become a member of the Texas Municipal Retirement System as a condition of his employment.

(Ord. No. 156, § 3, 1-11-1993)

Sec. 2-74. Fixed rate on deposits.

That all employees of the City of Shepherd, who are members of the Texas Municipal Retirement System, shall make deposits to the system at the rate of seven percent of their individual earnings.

(Ord. No. 156, § 4, 1-11-1993; Ord. No. 192, § 1, 8-14-2000)

Sec. 2-75. Authorization of restricted prior service credit.

(a) On the terms and conditions set out in sections 853.305 of Subtitle G of Title 8, Texas Government Code, as amended (hereinafter referred to as the "TMRS Act"), each member of the Texas Municipal Retirement System (hereinafter referred to as the "system") who is now or who hereafter becomes an employee of this city shall receive restricted prior service credit for service previously performed as an employee of any of the entities described in said section 853.305 provided that (1) the person does not otherwise have credited service in the system for that service, and (2) the service meets the requirements of said section 853.305.

(b) The service credit hereby granted may be used only to satisfy length-of-service requirements for retirement eligibility, has no monetary value in computing the annuity payments allowable to the member, and may not be used in other computations, including computation of updated service credits.

(c) A member seeking to establish restricted prior service credit under this section must take the action required under said section 853.305 while still an employee of this city.

(Ord. No. 156, § 5, 1-11-1993; Ord. No. 190, § 1, 6-12-2000)

Sec. 2-76. Contribution to accumulation fund.

For each month of current service rendered to this city by each of its employees who are members of Texas Municipal Retirement System, the city will contribute to the current service annuity reserve of each such member at the time of his retirement a sum that is 100 percent (100, 150 or 200) of such member's accumulated deposits for such month of employment, and such sum shall be contributed from the city's account in the municipality accumulation fund.

(Ord. No. 156, § 6, 1-11-1993)

Sec. 2-77. Remittance of contributions.

The city secretary is hereby directed to remit to the board of trustees of the Texas Municipal Retirement System, at its office in Austin, Texas, the city contributions to the system and the amounts which shall be deducted from the compensation or payroll of employees, all as required by such board under the provisions of the TMRS Act, and the city secretary is hereby authorized and directed to ascertain and certify officially on behalf of this city the prior service rendered to the city by each of the employees of the participating departments, and the average prior service compensation received by each, and to make and execute all prior service certifications and all other reports and certifications which may be required of the city under the provisions of the TMRS Act, or in compliance with the rules and regulations of the board of trustees of the Texas Municipal Retirement System.

(Ord. No. 156, § 7, 1-11-1993)

Sec. 2-78. Supplemental death benefits fund.

The city hereby elects to participate in the supplemental death benefits fund of the Texas Municipal Retirement System for the purpose of providing in-service death benefits for each of the city's employees who are members of such system, and for the purpose of providing post-retirement death benefits for annuitants whose last covered employment was as an employee of the city, in the amounts and on the terms provided for in V.T.C.A., Government Code §§ 852.004, 854.601—854.605, 855.314, 855.408, and 855.502.

(Ord. No. 156, § 8, 1-11-1993)

Secs. 2-79—2-100. Reserved.



ARTICLE IV. RECORDS MANAGEMENT***Sec. 2-101. Definition of records of the city; procedures generally.**

(a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Record of the city means any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, 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, including an ordinance, or in the transaction of public business. The term does not include:

- (1) Extra identical copies of documents created only for convenience of reference or research by city officers or employees;
- (2) Notes, journals, diaries, and similar documents created by a city officer or employee for the officer's or employee's personal convenience;
- (3) Blank forms;
- (4) Stocks of publications;
- (5) Library and museum materials acquired solely for the purposes of reference or display;
- (6) Copies of documents in any media furnished to members of the public to which they are entitled under V.T.C.A., Government Code ch. 552 or other state law;
- (7) Any records, correspondence, notes, memoranda, or other documents associated with a matter conducted under an alternative dispute resolution procedure in which personnel of a state department or institution, local government,

*Editor's note—Ord. No. 161, adopted October 11, 1993, did not specifically amend this Code; hence, codification of §§ 1—11 of said ordinance as §§ 2-101—2-111 herein was at the editor's discretion.

special district, or other political subdivision of the state participated as a party, facilitated as an impartial third party, or facilitated as the administrator of a dispute resolution system or organization.

(b) The records of the city 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.

(Ord. No. 161, § 1, 10-11-1993)

Cross reference—Definitions and rules of construction generally, § 1-3.

Sec. 2-102. Additional 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:

Department head means the officer who by ordinance or administrative policy is in charge of an office of the city that creates or receives records.

Director and librarian means the executive and administrative officer of the state library and archives commission.

Essential record means any record of the city 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.

Permanent record means any record of the city for which the retention period on a records control schedule is given as permanent.

Records control schedule means a document prepared by or under the authority of the records management officer listing the records maintained by the city, their retention periods, and other records disposition information that the records management program may require.

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.

Records management officer means the person designated in section 2-105 of this article.

Records management plan means the plan developed under section 2-106 of this article.

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.

(Ord. No. 161, § 2, 10-11-1993)

Cross reference—Definitions and rules of construction generally, § 1-3.

Sec. 2-103. Records declared public property.

All records of the city, as defined in section 2-101 of this article, 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.

(Ord. No. 161, § 3, 10-11-1993)

Sec. 2-104. 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 records of the city 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 (V.T.C.A., Local Government Code ch. 201 et seq.) and accepted records management practice.

(Ord. No. 161, § 4, 10-11-1993)

Sec. 2-105. Designation of records management officer.

The city secretary, and the successive holders of such office, shall serve as records management officer for the city. As provided by state law, each successive holder of the office shall file his name with the director and librarian within 30 days of the initial designation or of taking up the office, as applicable.
(Ord. No. 161, § 5, 10-11-1993)

Sec. 2-106. Development of records management plan; approval of plan; authority of plan.

(a) The records management officer shall develop a records management plan for the city 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 city, and to enable the records management officer to effectively carry out his duties prescribed by state law and this article.

(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, 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 article 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 city records management program.

(Ord. No. 161, § 6, 10-11-1993)

Sec. 2-107. Duties of records management officer.

In addition to other duties assigned in this article or by law, 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 reestablish operations quickly and with minimum disruption and expense;
- (4) Develop procedures to ensure the permanent preservation of the city's historically valuable records;
- (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;
- (7) Monitor records retention schedules and administrative rules issued by the state library and archives commission to determine if the records management program and the city's records control schedules are in compliance with state regulations;
- (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 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 for each city department, including summaries of the statistical and fiscal data compiled under subsection (10) of this section; and

- (12) Bring to the attention of the city council noncompliance by department heads or other municipal personnel with the policies and procedures of the records management program or the Local Government Records Act (V.T.C.A., Local Government Code ch. 201 et seq.).

(Ord. No. 161, § 7, 10-11-1993)

Sec. 2-108. Duties and responsibilities of department heads.

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

- (1) Cooperate with the records management officer in carrying out the policies and procedures established in 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; and
- (3) Maintain the records in his care and carry out their preservation, microfilming, destruction, or other disposition only in accordance with the policies and procedures of the city records management program and the requirements of this article.

(Ord. No. 161, § 8, 10-11-1993)

Sec. 2-109. Development of records control schedules; 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 records of the city as the records management plan may require.

(b) Each records control schedule shall be monitored and amended as needed by the records management office 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 city records management program.

(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.

(Ord. No. 161, § 9, 10-11-1993)

Sec. 2-110. 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 2-109 shall be implemented by the department head 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.

(Ord. No. 161, § 10, 10-11-1993)

Sec. 2-111. 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.
(Ord. No. 161, § 11, 10-11-1993)

Secs. 2-112—2-130. Reserved.

ARTICLE V. CLAIMS AGAINST CITY*

Sec. 2-131. Notice of facts.

The city shall never be liable for any claim for property damage or for personal injury, whether such personal injury results in death or not, unless the person damaged or injured or someone in his behalf or, if the injury results in death, the person who may have a cause of action under the law because of such death or injury shall, within six months from the date the damage or injury was received, give notice in writing to the mayor and city council for the following facts:

- (1) The date and time when the injury occurred and the place where the injured person or property was at the time when the injury was received.
- (2) The nature of the damage or injury sustained.
- (3) The apparent extent of the damage or injury sustained.
- (4) A specific and detailed statement of how and under what circumstances the damage or injury occurred.
- (5) The amount for which each claimant will settle.
- (6) The actual place of residence of each claimant by street, number, city and state on the date the claim is presented.
- (7) For personal injury or death, the names and addresses of all persons who, according to the knowledge or informa-

*Editor's note—Ord. No. 163, adopted July 11, 1994, did not specifically amend this Code; hence, codification of §§ 1—5 of said ordinance as §§ 2-131—2-135 herein was included at the editor's discretion.

tion of the claimant, witnessed the happening of the injury or any part thereof and the names of the doctors, if any, to whose care the injured person is committed.

- (8) For property damage, the location of the damaged property at the time the claim was submitted along with the names and addresses of all persons who witnessed the happening of the damage or any part thereof.

(Ord. No. 163, § 1, 7-11-1994)

Sec. 2-132. Filing for redress, satisfaction, compensation, or relief by plaintiff.

No suit of any nature whatsoever shall be instituted or maintained against the city unless the plaintiff therein shall ever prove that, prior to the filing of the original petition, the plaintiff applied to the city council for redress, satisfaction, compensation, or relief, as the case may be, and that such was by vote of the city council refused.

(Ord. No. 163, § 2, 7-11-1994)

Sec. 2-133. Notice requirements.

All notices required by this article shall be effectuated by serving them upon the city secretary, city clerk or city manager at the following locations: city secretary and city clerk at city hall (do not use post office box address). All such notices shall be effective only when actually received in the office of the person named in this section.

(Ord. No. 163, § 3, 7-11-1994)

Sec. 2-134. Waiver of notice.

The notice requirements of section 2-133 shall be waived if the city has actual knowledge of death, injury or property damage likely to result in a claim against the city. The city shall not be deemed to have actual knowledge unless that knowledge is attributable to an appropriate city official whose job duties include the authority to investigate or settle claims against the city.

(Ord. No. 163, § 4, 7-11-1994)

Sec. 2-135. Verification of notice by oath; perjury.

The written notice required under this article shall be sworn to by the person claiming the damage or injuries or by someone authorized by him to do so on his behalf. Failure to swear to the notice as required in this section shall not render the notice fatally defective, but failure to so verify the notice may be considered by the city council as a factor relating to the truth of the allegations and to the weight to be given to the allegations contained therein.

(Ord. No. 163, § 5, 7-11-1994)