CODE ORDINANCE

Sponsored by: Borough Manager
Introduced: 05/17/16
Public Hearing: 06/07/16
Adopted: 06/07/16

MATANUSKA-SUSITNA BOROUGH
ORDINANCE SERIAL NO. 16-069

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING MSB 2.47, BOROUGHWIDE RECORDS MANAGEMENT PROGRAM.

WHEREAS, the intent of this ordinance is found in the accompanying informational memorandum.

BE IT ENACTED:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the Borough Code.

Section 2. Amendment of section. MSB 2.47.010 is hereby amended as follows:

[(A) IT IS HEREBY DECLARED TO BE THE POLICY OF THE BOROUGH TO PROVIDE EFFICIENT, ECONOMICAL, AND EFFECTIVE CONTROLS OVER THE CREATION, DISTRIBUTION, ORGANIZATION, MAINTENANCE, USE, AND DISPOSITION OF ALL BOROUGH RECORDS THROUGH A COMPREHENSIVE SYSTEM OF INTEGRATED PROCEDURES FOR THEIR MANAGEMENT FROM CREATION TO ULTIMATE DISPOSITION, CONSISTENT WITH THE REQUIREMENTS OF AS 29.20.380(A)(4) AND MSB 2.25.010(4), AND ACCEPTED, LEGALLY RESPONSIVE RECORDS MANAGEMENT PRACTICES.

(A) The purpose of this chapter is to establish a Boroughwide records and information program for Borough records to improve the efficiency of recordkeeping and ensure accountability and other obligations relating to records and information management. The program ensures that Borough employees are able to identify, store and retrieve records while complying with regulatory, legal, and operational requirements. The program ensures that records that have outlived their usefulness are destroyed, those records that may be useful for future reference are retained appropriately and stored economically, and that the cost of record keeping is minimized.

Section 3. Amendment of section. MSB 2.47.020 is hereby amended as follows:

[(A) IT IS HEREBY DECLARED TO BE THE POLICY OF THE BOROUGH TO PROVIDE EFFICIENT, ECONOMICAL, AND EFFECTIVE CONTROLS OVER THE CREATION, DISTRIBUTION, ORGANIZATION, MAINTENANCE, USE, AND DISPOSITION OF ALL BOROUGH RECORDS THROUGH A COMPREHENSIVE SYSTEM OF INTEGRATED PROCEDURES FOR THEIR MANAGEMENT FROM CREATION TO ULTIMATE DISPOSITION, CONSISTENT WITH THE REQUIREMENTS OF AS 29.20.380(A)(4) AND MSB

2.25.010(4), AND ACCEPTED, LEGALLY RESPONSIVE RECORDS MANAGEMENT PRACTICES.

(B) the Matanuska-Susitna Borough has financial, business, legal and historical records. In the case of state and federal regulations, retention times may be specified within the regulations.

[(C) BOROUGH RECORDS DO NOT INCLUDE, AND THIS CHAPTER DOES NOT APPLY TO, LIBRARY AND MUSEUM MATERIAL DEVELOPED OR ACQUIRED AND PRESERVED SOLELY FOR REFERENCE, HISTORICAL OR EXHIBITION PURPOSES, BOROUGH PUBLIC LIBRARY ASSOCIATION MATERIALS, EXTRA COPIES OF DOCUMENTS PRESERVED SOLELY FOR CONVENIENCE OF REFERENCE, OR STOCKS OF PUBLICATIONS AND PROCESSED DOCUMENTS.]

[(D) THOSE RECORDS DEFINED IN MSB 1.50.040 AND/OR MSB 1.50.060 ARE CONFIDENTIAL OR PRIVILEGED RECORDS.]

[(E) IT IS IN THE BOROUGH'S INTEREST TO RETAIN RECORDS FOR MAJOR PUBLIC FACILITIES AND BUILDINGS IN THE EVENT THAT THE RECORDS BECOME NECESSARY TO DETERMINE LIABILITY OR ASSIST IN REPAIRS NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE.]

(A) It is hereby declared to be a policy to develop and implement a Boroughwide records and

information program for the management of Borough records. The program includes the systematic control of records from their creation or receipt, through their processing, distribution, organization, storage, and retrieval to their ultimate disposal.

The program is composed of:

(1) records inventory and classification;

(2) retention scheduling;

(3) records storage and conversion;

(4) vital records program;

(5) disaster prevention and recovery;

(6) disposition;

(7) training;

(8) the development of policies and procedures to implement the program consistent with the requirements of A.S. 29.20.380(a)(4) and MSB 2.25.010(4), and industry accepted records and information management practices.

(9) tools for maintaining and using records include records schedules, file plans, indexes, controlled vocabularies, taxonomies, records management software, and access and security procedures.

(C) Those records defined as confidential or privileged records are defined in Borough code or state and federal regulations.

(D) Whenever possible, one record is the official record. An electronic record may be the official record.

Section 4. Amendment of section. MSB 2.47.030 is hereby amended as follows:

[(A)"RECORDS" MEANS BOOKS, PAPERS, FILES, ACCOUNTS, WRITINGS, INCLUDING DRAFTS AND MEMORIALIZATIONS OF CONVERSATIONS, AND OTHER ITEMS, REGARDLESS OF FORMAT OR PHYSICAL CHARACTERISTICS, THAT ARE DEVELOPED OR RECEIVED BY A PUBLIC AGENCY, OR BY A PRIVATE CONTRACTOR FOR A PUBLIC AGENCY, AND THAT ARE PRESERVED FOR THEIR INFORMATIONAL VALUE OR AS EVIDENCE OF THE ORGANIZATION OR OPERATION OF THE PUBLIC AGENCY.]

(A) Records means any document, paper, book, letter, drawing, map, plat, photo, photographic file, motion picture film, microfilm, microphotograph, exhibit, magnetic or paper tape, punch card, electronic record, or other document of any other material, regardless of physical form or

characteristic, developed or received under law or in connection with the transaction of official business and preserved or appropriate for preservation by an agency or a political subdivision, as evidence of the organization, function, policies, decisions, procedures, operations, or other activities of the borough or because of the informational value in them.

(B) The term does not include library and museum material developed or acquired and preserved solely for reference, historical, or exhibition purposes, extra copies of documents preserved solely for convenience of reference, stocks of publications, or processed documents.

Section 5. Amendment of section. MSB 2.47.040 is hereby amended as follows:

[(A) ALL BOROUGH RECORDS, AS DEFINED IN MSB 2.47.030, REGARDLESS OF PHYSICAL FORM OR CHARACTERISTIC AND REGARDLESS OF WHETHER PUBLIC ACCESS TO THEM IS OPEN OR RESTRICTED UNDER THE LAWS OF THE STATE, OR BOROUGH, CREATED OR RECEIVED BY THE BOROUGH OR ANY OF ITS OFFICERS, EMPLOYEES OR AGENCIES, PURSUANT TO LAW OR IN THE TRANSACTION OF PUBLIC

BUSINESS ARE HEREBY DECLARED THE PROPERTY OF THE BOROUGH AND SHALL BE CREATED, MAINTAINED, AND DISPOSED OF IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER AND PROCEDURES AUTHORIZED BY IT AND IN NO OTHER MANNER.

(B) ALL BOROUGH RECORDS IDENTIFIED IN THIS CHAPTER ARE HEREBY DECLARED THE PROPERTY OF THE BOROUGH. NO BOROUGH OFFICIAL OR EMPLOYEE HAS, BY VIRTUE OF HIS OR HER POSITION, ANY PERSONAL OR PROPERTY RIGHT TO SUCH RECORDS EVEN THOUGH HE OR SHE MAY DEVELOP OR COMPILE THEM. THE UNAUTHORIZED DESTRUCTION, REMOVAL FROM FILES, OR USE OF SUCH RECORDS IS PROHIBITED.]

(A) All Borough records regardless of whether public access to them is open or restricted under the laws of the state or Borough, are hereby declared the property of the Borough and shall be created, maintained, and disposed of in accordance with the provisions of this chapter and procedures authorized by it and in no other manner.

(B) No Borough official or employee has, by virtue of their position, any personal or property right to such records even though they may develop or

compile them. The unauthorized destruction, removal from files, or use of such records is prohibited. Employees departing the Borough are required to leave all records for their successors. The Borough may initiate actions to recover records unlawfully removed from borough possession.

Section 6. Amendment of section. MSB 2.47.050 is hereby repealed in its entirety and re-enacted as follows:

[(A) OVERALL ACCOUNTABILITY FOR THE BOROUGH RECORDS MANAGEMENT PROGRAM LIES WITH THE BOROUGH CLERK AS DIRECTED BY THE BOROUGH ASSEMBLY.

(B) RESPONSIBILITIES.

(1) ASSEMBLY:

(A) EXECUTIVE BODY THAT ENDORSES THE RECORDS MANAGEMENT PROGRAM. THE RECORDS MANAGEMENT PROGRAM INCLUDES THE SYSTEMATIC CONTROL OF RECORDS FROM THEIR CREATION, OR RECEIPT, THROUGH THEIR PROCESSING, DISTRIBUTION, ORGANIZATION, STORAGE, AND RETRIEVAL TO THEIR ULTIMATE DISPOSITION FOR THE PURPOSE OF REDUCING THE COSTS AND IMPROVING THE EFFICIENCY OF RECORDKEEPING. THE TERM INCLUDES THE DEVELOPMENT OF RECORDS RETENTION SCHEDULES, A UNIFORMED RECORD PLAN, THE MANAGEMENT OF FILING AND

INFORMATION RETRIEVAL SYSTEMS, THE PROTECTION OF ESSENTIAL AND PERMANENT RECORDS, THE ECONOMICAL AND SPACE-EFFECTIVE STORAGE OF INACTIVE RECORDS, THE MANAGEMENT OF MICROGRAPHICS AND ELECTRONIC AND OTHER RECORDS STORAGE SYSTEMS, AND THE DEVELOPMENT OF POLICIES AND PROCEDURES TO IMPLEMENT THE PROGRAM; AND

(B) APPROVE BOROUGH RECORDS RETENTION SCHEDULES AND ANY AMENDMENTS.

(2) BOROUGH MANAGER:

(A) ENSURE ALL DEPARTMENTS COMPLY WITH THE RECORDS MANAGEMENT PROGRAM; AND

(B) APPROVE THE RECORDS MANAGEMENT POLICIES AND PROCEDURES AS PREPARED BY THE CLERK.

(3) BOROUGH CLERK:

(A) ASSIGNED BY THE ASSEMBLY, TO PROVIDE CENTRAL LEADERSHIP AND OVERSIGHT OF THE RECORDS MANAGEMENT PROGRAM PER AS 29.20.380 AND MSB 2.25.010; AND

(B) PREPARE AND APPROVE THE RECORDS MANAGEMENT POLICIES AND PROCEDURES.

(4) RECORDS MANAGEMENT OFFICER:

(A) A MATANUSKA-SUSITNA BOROUGH

EMPLOYEE WHO HAS BEEN DESIGNATED BY THE CLERK TO CREATE, IMPLEMENT, AND MANAGE THE RECORDS MANAGEMENT PROGRAM AND ENSURE THE OBJECTIVES ARE ACHIEVED THROUGH DEPLOYMENT, IMPLEMENTATION, MONITORED TRAINING, AND CONTINUOUS IMPROVEMENT; AND

(B) SUBJECT MATTER EXPERT TO IDENTIFY AND INTERPRET REGULATORY REQUIREMENTS, INCLUDING RETENTION SCHEDULE REQUIREMENTS.

(5) BOROUGH ATTORNEY:

(A) REVIEW RETENTION SCHEDULES FOR LEGAL COMPLIANCE AND SIGN OFF DESTRUCTION OF BOROUGH RECORDS; AND

(B) RESPONSIBLE FOR NOTIFYING ALL BOROUGH EMPLOYEES OF LITIGATION HOLDS AND RELEASES FOR BOROUGH RECORDS UPON POTENTIAL SUSPICION OF LITIGATION, OR SUBPOENA OF BOROUGH RECORDS.

(6) DEPARTMENT DIRECTORS:

(A) IMPLEMENT AND ENSURE COMPLIANCE WITH THE RECORDS MANAGEMENT PROGRAM WITHIN THEIR DEPARTMENT AND DIVISION, AS OUTLINED IN THE RECORDS MANAGEMENT PROGRAM AND THIS CHAPTER; AND

(B) DESIGNATE DEPARTMENTAL RECORDS COORDINATORS AND BACKUPS FOR THEIR DEPARTMENT AND

DIVISIONS.

(7) RECORD COORDINATOR:

(A) RESPONSIBLE FOR PROVIDING COORDINATION BETWEEN THE RECORDS MANAGEMENT OFFICER AND PERSONNEL IN THEIR OFFICE TO ENSURE COMPLIANCE WITH THE PROVISIONS OF THE RECORDS MANAGEMENT PROGRAM. THEY ARE ALSO RESPONSIBLE FOR MAINTAINING THEIR DEPARTMENT RECORDS, BOTH ACTIVE AND INACTIVE, IN THE RECORDS MANAGEMENT SOFTWARE FOR THE LIFE CYCLE OF THE RECORD; AND

(B) THEY ARE ALSO THE SPOKESPERSON FOR THE RECORDS PROGRAM FOR THEIR DEPARTMENT AND SHALL INFORM THEIR DEPARTMENT'S MANAGEMENT OF ANY CHANGES IN POLICIES AND PROCEDURES.

(8) BOROUGH EMPLOYEES AND CONTRACTED AGENTS:

(A) CREATE, CAPTURE, AND ORGANIZE RECORDS OF TRANSACTION UNDERTAKEN IN BUSINESS PROCESS ACCORDING TO THE BOROUGH POLICIES, PROCEDURES, AND THIS CHAPTER.]

(A) Overall accountability for the Borough records and information management program lies with the Borough Clerk as directed by State statute and Borough code.

(B) Responsibilities are as follows:

(1) Assembly. Serves as the executive body that endorses the records and information management program.

(2) Borough Manager. Has responsibility to ensure that all Borough department directors and employees observe all requirements of this chapter, A.S. 40.21, and the records and information management policy and procedures.

(3) Borough Clerk. Serves at the appointment of the Assembly, to provide central leadership and oversight of the records and information management program per A.S. 29.20.380, MSB 2.25.010, and this chapter; as well as approves the records and information management policy and procedures and any software used to manage borough records.

(4) Records Management Officer. Serves as the designee of the Clerk to create, implement, and manage the records and information management program and ensures

that its processes are achieved through the development of policy, procedures, training, and continuous improvement; as well as identifying and interpreting regulatory requirements, including retention schedule requirements and authorizes destruction of Borough records.

(5) Borough Attorney. Reviews retention schedules for legal compliance, notifies appropriate employees of litigation holds and releases for Borough records upon potential suspicion of litigation, or subpoena of borough records. Responsible for notification and decisions regarding holds and releases and authorizes destruction of Borough records.

(6) Department Directors. Responsible for ensuring that their staff create and keep records as an integral part of their work and in accordance with established policies, procedures and standards. They provide the resources necessary for the management of records and communicate with the records

team on all aspects of the program. Responsible for designating records coordinators for their department and divisions, as well as authorizing destruction of department records.

(7) Record Coordinators. Provide coordination and communication between the records management officer and personnel in their department for compliance with the provisions of the records and information management program. Assist with their departmental records, both active and inactive, in the records management software for the life cycle of the record. Also serves as the spokespersons for the records and information program for their department and shall inform their department's management of any updates or changes to the records and information program.

(8) Borough employees and contracted agents. Required to comply with the records and information management program established in this chapter. All Borough

employees and contractors have the responsibility to ensure that the records they create and receive are managed in accordance with the policies and procedures and in accordance with this chapter.

(9) Records Management Steering Committee. A committee with a member from Administration, Law, Finance, Records, and Information Technology, to review and approve any changes to the records retention schedule for the Borough on a regular basis to ensure compliance with record retention schedules issued by the state and federal regulations, and that it continues to reflect the needs of the departments annually. The committee will also work with Information Technology and departments to incorporate records management requirements when purchasing and implementing existing and new software or enterprise applications to ensure records and information compliance.

Section 6. Amendment of section. MSB 2.47.060 is hereby

amended as follows:

[(A) THE RECORDS MANAGEMENT OFFICER, IN COOPERATION WITH DEPARTMENT DIRECTORS, SHALL PREPARE A RECORD PLAN LISTING OF ALL RECORD SERIES CREATED OR RECEIVED BY THE DEPARTMENT AND ASSIGN RETENTION PERIODS FOR EACH SERIES. RECORDS RETENTION SCHEDULES SHALL ALSO CONTAIN SUCH OTHER INFORMATION REGARDING THE DISPOSITION AND STORAGE LOCATION OF CLOSED BOROUGH RECORDS, AS THE RECORDS MANAGEMENT PLAN MAY REQUIRE.]

[(B) THE RECORDS MANAGEMENT COMMITTEE ESTABLISHED THROUGH RESOLUTION 90-069 SHALL REVIEW AND APPROVE ANY CHANGES TO THE RECORDS RETENTION SCHEDULE FOR THE BOROUGH ON A REGULAR BASIS TO ENSURE COMPLIANCE WITH RECORD RETENTION SCHEDULES ISSUED BY THE STATE AND FEDERAL REGULATIONS, AND THAT IT CONTINUES TO REFLECT THE RECORDKEEPING PROCEDURES AND NEEDS OF THE DEPARTMENT AND THE RECORDS MANAGEMENT PROGRAM OF THE BOROUGH.]

[(C) THE APPROVED RETENTION SCHEDULE AND ANY AMENDMENTS SHALL BE ADOPTED BY RESOLUTION.]

[(D) A RECORD WHOSE RETENTION PERIOD HAS EXPIRED ON A RECORD RETENTION 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 LAWSUIT THAT HAS BEEN IDENTIFIED BY THE BOROUGH ATTORNEY, OR THE DEPARTMENT DIRECTOR REQUESTS IN WRITING TO THE RECORDS MANAGEMENT OFFICER THAT THE RECORD BE RETAINED FOR AN ADDITIONAL PERIOD.]

[(E) AS-BUILT DRAWINGS, AND RECORD DRAWINGS RELATED TO PUBLIC FACILITIES OR BUILDINGS WHOSE CONSTRUCTION COST IS OVER $2,000,000 IN VALUE, OR PROJECTS FINANCED THROUGH THE ISSUANCE OF BOROUGH INDEBTEDNESS, ARE NOT SUBJECT TO THE DESTRUCTION PROVISIONS OF SUBSECTION (D) OF THIS SECTION. THE SAME RECORDS INVOLVING MAJOR REHABILITATION OR MAJOR REPAIR OF SUCH FACILITIES OR BUILDINGS ARE ALSO EXEMPT FROM THE DESTRUCTION PROVISIONS OF SUBSECTION (D) OF THIS SECTION. SUCH RECORDS SHALL BE KEPT PERMANENTLY.]

[(F) PRIOR TO THE DESTRUCTION OF A RECORD UNDER AN APPROVED RECORDS RETENTION SCHEDULE, THE RECORDS MANAGEMENT OFFICER, HISTORIAN, AND ATTORNEY (DESTRUCTION TEAM) MUST APPROVE AUTHORIZATION FOR THE DESTRUCTION OF BOROUGH RECORDS.]

[(G) THE RECORDS MANAGEMENT OFFICER OR DESIGNEE VERIFIES PROPER DESTRUCTION OF THE RECORDS AND CERTIFIES THE RECORDS DESTRUCTION FOR SPECIFIED

RECORDS.]

(A) The Records Management Officer in cooperation with department directors or designee shall prepare a record classification plan listing all record categories created or received by the department and assign a retention schedule for each category. The retention schedules shall contain the following information:

(1) name of record series;

(2) vital record;

(3) retention period;

(4) authority;

(5) review date; and

(6) disposition date.

(B) Prior to destruction of a record under the approved retention schedule, the department director, attorney and records management officer will review the records for destruction.

(C) A record whose retention period has expired on a record retention schedule shall be destroyed unless:

(1) an open records request is pending on the record, the subject matter of the record is

pertinent to a pending lawsuit and identified by the Borough Attorney; or

(2) the department director requests in writing to the Clerk, that the record be kept for an additional period for good cause.

(D) The Records Management Officer or designee verifies proper destruction of the records and certifies records destruction.

Section 6. Amendment of section. MSB 2.47.070 is hereby amended as follows:

[(A) ALL BOROUGH EMPLOYEES ARE REQUIRED TO USE THE RECORDS MANAGEMENT PROGRAM ESTABLISHED AND SUPERVISED BY THE MATANUSKA-SUSITNA BOROUGH CLERK.]

[(B) PERIODIC AUDIT WILL BE CONDUCTED OF THE RECORDS MANAGEMENT PROGRAM BY A CERTIFIED RECORDS MANAGEMENT CONSULTANT. THE OVERALL PURPOSE OF THE RECORDS MANAGEMENT AUDIT IS TO PROVIDE INFORMATION ABOUT THE EFFICIENCY AND EFFECTIVENESS OF THE RECORDS MANAGEMENT PROGRAM AS A WHOLE AND OF THE INDIVIDUAL FUNCTIONS THAT MAKE UP THE SYSTEM. PROVIDING THIS INFORMATION TO THE ASSEMBLY AND THE APPROPRIATE PEOPLE IS THE PURPOSE OF THE AUDIT.]

[(C) ANALYSIS FROM THE AUDIT WILL BE FORWARDED TO

THE ASSEMBLY FOR FURTHER ACTION.]

[(D) THE RECORDS MANAGEMENT OFFICER WILL REPORT UPON AUDIT TO THE ASSEMBLY ON THE IMPLEMENTATION OF THE RECORDS MANAGEMENT PROGRESS IN EACH DEPARTMENT INCLUDING SUMMARIES OF THE STATISTICAL AND FISCAL DATA COMPILED.]

(A) A periodic audit will be conducted of the records and information management program by an outside records management consultant. The overall purpose of the records and information management audit is to provide information about the efficiency and effectiveness of the records and information management program as a whole and of the individual functions that make up the system.

(B) Upon completion of the audit, the Records Management Officer will report the audit findings to the Assembly regarding the records management status in each department. The report will include summaries of the statistical and fiscal data complied.

Section 3. Effective date. This ordinance shall take effect upon adoption.

ADOPTED by the Matanuska-Susitna Borough Assembly this 7 day of June, 2016.

for VERN HALTER, Borough Mayor

ATTEST:

LONNIE R. McKECHNIE, CMC, Borough Clerk

(SEAL)

PASSED UNANIMOUSLY: Sykes, McKee, Colligan, Mayfield, Doty, and Kowalke