



LAKE COUNTY FOREST PRESERVES  
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Preservation, Restoration, Education and Recreation

**DATE:** February 9, 2017

**Agenda Item#** 9.5

**MEMO TO:** S. Michael Rummel, Chair  
Finance Committee

**FROM:** Mary E. Kann  
Director of Administration

**RECOMMENDATION:** Recommend approval of an Ordinance amending the Personnel Policies and Procedures by adding Policy 8.14 – Records Management.

**STRATEGIC DIRECTION SUPPORTED:** Organizational Sustainability.

**FINANCIAL DATA:** There is no financial impact.

**BACKGROUND:** The District is governed by the Local Records Act and other applicable records retention laws regarding the retention and destruction of public records. The addition of a formal personnel policy will address the maintenance of documents necessary for compliance with the Act; the destruction of documents which no longer need to be retained; and, employees' responsibilities concerning document retention and destruction.

**REVIEW BY OTHERS:** Executive Director, Chief Operations Officer, Human Resources/Risk Manager, Information Technology Officer, Director of Finance, Corporate Counsel.

STATE OF ILLINOIS)  
  ) SS  
COUNTY OF LAKE )

**BOARD OF COMMISSIONERS  
LAKE COUNTY FOREST PRESERVE DISTRICT  
REGULAR FEBRUARY MEETING  
FEBRUARY 14, 2017**

MADAM PRESIDENT AND MEMBERS OF THE BOARD OF COMMISSIONERS:

Your **FINANCE COMMITTEE** presents herewith "An Ordinance Amending the Personnel Policies and Procedures by Adding Policy 8.14 – Records Management" and requests its adoption.

**FINANCE COMMITTEE:**

Date: 2/9/2017  Roll Call Vote: Ayes: \_\_\_\_\_ Nays: \_\_\_\_\_  
 Voice Vote Majority Ayes: \_\_\_\_\_ Nays: 0

**LAKE COUNTY FOREST PRESERVE DISTRICT  
LAKE COUNTY, ILLINOIS**

**AN ORDINANCE AMENDING THE PERSONNEL POLICES AND PROCEDURES BY  
ADDING POLICY 8.14 – RECORDS MANAGEMENT**

**WHEREAS**, on August 15, 1980 the Lake County Forest Preserve District (the “District”) passed and approved certain Personnel Policies and Procedures, which have been amended from time to time (the “Policies”); and

**WHEREAS**, it is in the best interests of the District to amend the Policies by adding a new Section 8.14 titled “Records Management,” which will be a policy and procedure relating to compliance with the Illinois Local Records Act (the “New Policy”); and

**WHEREAS**, the New Policy shall be in the form of Exhibit A attached to this Ordinance and incorporated herein by this reference;

**NOW, THEREFORE, BE IT ORDAINED** by the Board of Commissioners of the Lake County Forest Preserve District, Lake County, Illinois, **THAT**:

**Section 1: Recitals.** The recitals set forth above are incorporated as a part of this Ordinance by this reference.

**Section 2: Approval of New Policy.** The New Policy is hereby approved. The Executive Director of the District is hereby authorized and directed to add the New Policy to the Policies.

**Section 3: Effective Date.** This Ordinance shall be in full force and effect from and after its passage and approval in the manner provided by law.

PASSED this \_\_\_\_ day of \_\_\_\_\_, 2017.

AYES:

NAYS:

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Ann B. Maine, President  
Lake County Forest Preserve District

ATTEST:

\_\_\_\_\_  
Julie Gragnani, Secretary  
Lake County Forest Preserve District

Exhibit No. \_\_\_\_\_



## 8.14 Records Management

*Effective Date: February 14, 2017*

### Policy

The Lake County Forest Preserve District is governed by the Local Records Act and its regulations set forth in the Illinois Administrative Code, in addition to other applicable records retention and destruction laws. The procedure below addresses (a) the preservation of public records necessary for the proper functioning of the organization and compliance with the Local Records Act and other State laws; (b) the destruction of documents which no longer need to be retained; and (c) employee responsibilities concerning document retention and destruction.

This policy encompasses all records produced by employees regardless of form (paper and electronic) that pertain to public business or are in the possession and control of the District.

Failure to comply with this records management policy, the Local Records Act, and other records retention and destruction laws can result in criminal penalties, fines, obstruct justice, spoil potential evidence in a lawsuit, or otherwise seriously disadvantage the District.

### Procedure

#### 1. "Public Records" Under the Local Records Act

The Local Records Act and its regulations impose rules governing the preservation and destruction of "Public Records." The Local Records Act broadly defines a "Public Record" to include any documentary material, regardless of its physical form, made or received by any public agency in connection with the transaction of public business and preserved or appropriate for preservation by the agency as evidence of its organization, function, policies, decisions, procedures, or other activities or because of the informational data contained therein. A "Public Record" can include many forms of documentary materials, such as books, papers, maps, photographs, emails, text messages, and other digital or digitized electronic material. However, not all documentary material is a "Public Record" (see Section 2 of this policy).

Importantly, a "Public Record" must be preserved in accordance with the Local Records Act regardless of its form. "Public Records" can include both paper and electronic records, including most emails, documents stored electronically on District computers and servers, text messages, electronic databases, and computerized calendars and appointment books.

In determining whether a record is a "Public Record," the most important factor is whether the record was created or received by the District pursuant to a law or in connection with the transaction of public business.



2. Material that is not a “Public Record” under the Local Records Act

The Local Records Act does not require the District to preserve records that are defined as “Non-Record Material.” Non-Record Material can be destroyed at any time without following the procedures set forth in Section 4 of this policy except if it falls within an exception listed in Section 3.e.

Non-Record Materials include, without limitation:

- a. Private materials that (i) are neither made nor received by the District pursuant to State or local law and (ii) do not relate to public business;
  - e.g. An email to a coworker discussing meeting for a meal after work for personal purposes
- b. Extra copies of documents (the Local Records Act does not require the District to preserve multiple copies of the same Public Record);
- c. Books, periodicals, newspapers, posters, finding aids and other library and museum materials made or acquired and preserved solely for reference or exhibition purposes;
- d. Transitory messages, which are messages created primarily to communicate information of short-term value. Transitory messages are not intended to formalize or perpetuate knowledge, and do not set policy, establish guidelines or procedures, certify a transaction or become a receipt.
  - e.g. Post-it® notes or other notes created only to refresh an employee’s short-term memory; records that only remind people of meeting dates or times; most voicemail messages; announcements of office events, such as an announcement for a holiday party, a lunch, or a newly hired employee; a record that only acknowledges receipt of a document.

Additional examples of Non-Record Material can be found on the District’s employee intranet.

If there is any doubt whether a record is a Public Record or Non-Record Material, the record is presumed to be a Public Record and must be preserved in accordance with this Records Management Policy and the Local Records Act until a conclusive determination is made by the Director of Administration.

Note: All records, including Non-Record Materials, must be preserved by the District once the District is on notice of a threatened or filed claim with an administrative agency, or of a threatened or filed lawsuit against it, and the records bear some relationship to the subject matter of the claim. See Section 3.e of this policy.



3. Preservation of Public Records

- a. Responsibility for Preservation. Each employee who creates, sends or receives a Public Record is responsible for retaining the Public Record in accordance with this Records Management Policy, the Local Records Act, and all other requirements of law. All personnel and Departments must organize their Public Records to promote fast and efficient retrieval of information.
- b. Length of Preservation. Public Records must be preserved for the minimum amount of time set forth in the District's records retention schedule. However, even if a Public Record has been maintained for such minimum amount of time, it cannot be destroyed unless the Local Records Commission has approved a records disposal certificate for the specific Public Record at issue.
- c. Electronic Documents/Document Integrity/Electronically Stored Documents. Public Records in an electronic format or database shall be maintained just as hard copies or paper documents are, in accordance with the District's records retention schedule.

e.g. If a records retention schedule requires an agency study to be preserved for 10 years, the study must be preserved for 10 years regardless of whether the study is stored in a paper file or on a District computer or server.

Due to the fact that the integrity of electronic documents, whether with respect to the ease of alteration or deletion, may come into question, the Information Technology Division shall establish standards for electronic file security, backup and restore procedures, archiving documents, and regular checks of the reliability of the file system. All personnel must comply with such standards established by the Information Technology Division.

- d. Emails. Emails relating to a particular Public Record otherwise addressed in a specific records retention schedule should be preserved for the same period as the Public Record to which it relates.

e.g. If a records retention schedule requires agency studies to be preserved for 10 years, emails relating to agency studies should also be preserved for 10 years.

Emails, however, do not need to be preserved in an electronic form. Emails may be preserved in a hard copy and filed with the Public Record to which they relate.

An email that is a Public Record and does not relate to other Public Records, such as general correspondence, must be preserved for at least 24 months.

It should be noted that the District's email server retains emails for only two years. Therefore, all emails that must be preserved longer than two years must be



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archived on the proper drive to preserve the emails in accordance with the applicable records retention schedule.

- e. Litigation Hold, Investigations, and Freedom of Information Act Request. Public Records and Non-Record Material that are the subject of pending or anticipated litigation, a pending investigation request, or a pending FOIA request must be preserved until the legal action or activity has ended or the FOIA request has been properly granted or denied -- even if the records are otherwise scheduled for destruction pursuant to this policy. Any individual with knowledge of pending litigation, a pending investigation, or a FOIA request shall immediately inform the District's FOIA officer or Corporate Counsel. The District employee primarily responsible for handling the litigation or FOIA request will be responsible for informing all necessary parties when the action has been resolved and preservation of the records is no longer necessary.
- f. Emergency Response Plan. Records which are necessary for the continued operation of the District in the case of an emergency shall be regularly duplicated or backed up and preserved in an off-site location. The Local Records Act requires the development of an Emergency Response Plan, which, when published, will supplement the District's existing procedures for document retention in the case of an emergency.

4. Disposal of Public Records

- a. Disposal Procedure. The procedure for disposing Public Records, prior to destruction, is as follows:
  - 1. The District maintains an approved "Application for Authority to Dispose of Public Records" that includes a detailed "series" (or the "Schedule") of Public Records and their minimum retention period;
  - 2. Using the District's approved application for Authority to Dispose of Public Records, a Records Disposal Certificate is prepared by the District and submitted to the Local Records Commission for its review at least thirty (30) calendar days prior to the scheduled destruction;
  - 3. Upon receipt of an approved Records Disposal Certificate from the Commission and  
  
confirmation by the District that there is no pending or anticipated litigation or FOIA requests involving any or all of these Public Records, and that all government-mandated audit requirements have been satisfied; and
  - 4. The District proceeds to disposal.



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In the event that Public Records at the District are damaged by a natural disaster and pose a health or safety risk to District employees, the District will apply to the Local Records Commission for authority to dispose of these records ahead of their scheduled disposal date.

- b. Method of Destruction. The Local Records Act regulations require that all records (both Public Records and Non-Record Material), whether in paper or electronic format, for which disclosure is prohibited by law and that contain social security numbers, driver's license numbers, or state identification numbers, or that identify a person by name and birth date must be destroyed by a method approved by the Local Records Commission.

However, even if a law does not specify a specific method by which a record must be destroyed, District personnel are required to use a destruction method that is sufficient to protect any sensitive information from disclosure.

- c. Expungement of Law Enforcement Records and Other Court-Ordered Destruction. The District occasionally receives court orders requiring the expungement of law enforcement records and other types of records. Such expungement orders and other types of court orders may require the District to destroy records even if a destruction schedule may otherwise require the District to maintain the record for an additional amount of time.

However, there are strict procedures that must be followed before records are destroyed pursuant to expungement orders (including a 60-day waiting period) or other court orders. Accordingly, any employee receiving an expungement order or other type of court order must promptly contact the District's Corporate Counsel by telephone. Do not email the District's attorney or any other person without first calling the District's attorney because doing so creates an additional record, which may violate the court order or make it more cumbersome to comply with such order.

## 5. Returning Documents to Third Parties

The Local Records Act requires the District to preserve Public Records that are received by the District. Therefore, once a Public Record passes into the possession or control of the District, the District may have an obligation to preserve a copy.

Accordingly, no District employee should provide or return any Public Record to a third party unless the employee confirms that the District has properly preserved a copy of the Public Record or checked with his or her supervisor or the District's Corporate Counsel to confirm that the Public Records can be returned to the third party without preserving a copy. In addition, no employee shall promise or commit the District, whether orally, in writing, or by contract, to return all copies of a Public Record to a third party without first consulting a supervisor or the District's Corporate Counsel.





6. Separation from Employment

Employees shall not take District records with them when they terminate employment with the District, and they shall not destroy records that have not yet fulfilled their approved retention period. Supervisors are responsible for ensuring that the records (including email and other electronic records) of employees who are separating from employment with the District continue to be retained in accordance with this policy and the law.

7. Failure to Adhere to this Records Management Policy

Failure to adhere to this records management policy may result in discipline, up to and including discharge. Further, a person who knowingly and without lawful authority alters, destroys, defaces, removes or conceals any Public Record commits a Class 4 felony (720 ILCS 5/32-8).