

CITY OF COSTA MESA

Guide for Records Retention Scheduling

with Attached Government Codes and Legal Opinion

This guide was compiled for the purpose of aiding the City of Costa Mesa, the City Council, the City Attorney, the City Manager, the managers of the various City departments and City employees so involved in the area of Records Management. It is a generalized guide based on Government Code sections controlling the retention and destruction of public records. These Government Code sections, and a relevant opinion by the California Attorney General, are attached for the user's convenience. Note that the guide categorizes public records by class number, describes records by types, assigns recommended retention periods in "active" and "inactive" files, gives the legal period of time the record must be retained before destruction, and shows the procedure necessary to accomplish destruction.

"Active" refers to those records kept in the office due to operational need. "Inactive" refers to those records no longer required, or seldom required, in the course of department operations. Retention periods listed under active/inactive are recommendations only; department heads may alter these periods to meet their own requirements. For the sake of efficient records management, it is always recommended that records be maintained in "active" status for the shortest possible period of time. It is further recommended that records be destroyed at the earliest legal date, excepting only those few records truly necessary for future reference. Inactive records should be stored in an easily accessible location other than the office. Microfilm should be used where the law, and cost, permits, to keep records requiring retention for periods longer than five years. With few exceptions, bulky, space-consuming originals can be destroyed after they have been microfilmed.

A "Records Retention Schedule Form" is available to itemize the records of a department. It is similar in composition to the guide but provides space for "department remarks." Once a department inventory and classification of records has been accomplished, a department head will need only refer to his records retention schedule to determine what forms are eligible for reclassification, microfilm, or destruction.

Definitions:

Public Record is defined in Section 6252 of the Government Code as "any writing containing information relating to the conduct of the public's business prepared, owned, used or retained by any state or local agency, regardless of physical form or characteristics."

Writing is defined in Section 6252 as "any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored."

The term records includes (but is not limited to) all papers, maps, exhibits, e-mails, faxes, magnetic or paper tapes, photo-graphic films and prints, punched cards and other documents produced, received, owned or used by a City department.

Permanent is defined by Webster's Dictionary as "continuing or enduring without fundamental or marked change, stable, throughout, to remain." In our reference, it means lasting as long as, or longer than the City of Costa Mesa, or forever.

Indefinite is defined by Webster's Dictionary as "not definite, not precise, vague, having no exact limits." In our reference, it means there is no legal period of retention; department heads may determine the period of retention and destroy, at their discretion, unless City policy dictates otherwise.

CITY OF COSTA MESA
Guide for Records Retention Scheduling
 Based on the State Statutes Governing the Destruction of Public Records:
 Section 34090.5, 34090.7, and 53921 of the Government Code

Class No.	Description	Retention Periods			Remarks
		Active	Inactive	Destroy	
I-A	Records Affecting Title to Real Property.	5	P*		Including, but not limited to, deeds, Rights-of-Way files, Leases, etc.
I-B	Records Required to be kept permanently by State Statute.	5	P		
I-C	Minutes, Ordinances, and Resolutions of the City Council and Boards and Commissions.	5	P		
I-D	Documents with lasting historical, administrative, legal, fiscal, or research value, and record copies of department publications.	5	P		
II	Records requiring retention for more than two years, but not permanently, either by statute or administrative policy.	5	Until Expired	When Expired	These records may be destroyed with approval of City Attorney and City Council, but only after the assigned retention period has elapsed.
III	Original documents disposable after occurrence of an event or an action (such as an audit, job completion, completion of contract, etc.), or after termination of revocation.	2-5	0-3	5	Destroy five years after occurrence – but only upon approval of City Attorney and City Council. NOTE: Records covered by Government Code § 53921 need "Treasury Officer" and Legislative Body approval, but not City Attorney's.

IV	All other original City records, documents, or instruments, books or papers that are considered public documents, not included in Groups I through III.	2-5	0-3	5	Destroy with approval of City Attorney and City Council.
V	Duplicate records of I, II, III, and IV requiring retention for administrative purposes.	X**		X	Government Code section 34090.7 allows City Council to grant authority to department heads to destroy duplicate records at their discretion. If no such authority has been granted, Class V (duplicate) records may be destroyed only with approval of City Attorney and City Council.
VI	<p>MISCELLANEOUS FILES</p> <p>Copies of documents which duplicate the record copies filed elsewhere in the City; non-record; rough drafts, notes, feeder reports, and similar working papers accumulated in preparation of a communication, study, or other document (but excluding formal recommendations, coordination action, and other papers contributing to or resulting from preparation of the document, excepting those relating to CEQA compliance), and cards, listings, indexes, and other papers used for controlling work (excluding indexes to permanent documents). Also, routine requests for information, tracer letters, feeder reports, publications, etc., and all other materials not constituting data</p>				<p>Class VI materials are "non-record" and may be destroyed with approval of department head only.</p> <p>All records relating to CEQA must be retained until after the deadline to challenge a decision has passed.</p>

Attachment 1

VII	Recordings of telephone and radio communications.	100 days	See remark	See remark	Department head may destroy such records after 100 days with City Council approval and written consent of City Attorney, unless recording constitutes evidence of a claim filed or pending litigation. If evidence, destroy after claim or litigation is resolved. Gov't Code § 34090.6.
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*P= Permanent
 **X = Indefinite

Government Code Sections Relevant to Records Retention and Destruction

§ 34090. Authority of head of city department to destroy city records; Exceptions; Authority provided in § 34090.5 not limited or qualified

Unless otherwise provided by law, with the approval of the legislative body by resolution and the written consent of the city attorney the head of a city department may destroy any city record, document, instrument, book or paper, under his charge, without making a copy thereof, after the same is no longer required.

This section does not authorize the destruction of:

- (a) Records affecting the title to real property or liens thereon.
- (b) Court records.
- (c) Records required to be kept by statute.
- (d) Records less than two years old.
- (e) The minutes, ordinances, or resolutions of the legislative body or of a city board or commission.

This section shall not be construed as limiting or qualifying in any manner the authority provided in Section 34090.5 for the destruction of records, documents, instruments, books and papers in accordance with the procedure therein prescribed.

§ 34090.5. Destruction of records by city officer

Notwithstanding the provisions of Section 34090, the city officer having custody of public records, documents, instruments, books, and papers, may, without the approval of the legislative body or the written consent of the city attorney, cause to be destroyed any or all of the records, documents, instruments, books, and papers, if all of the following conditions are complied with:

- (a) The record, paper, or document is photographed, microphotographed, reproduced by electronically recorded video

images on magnetic surfaces, recorded in the electronic data processing system, recorded on optical disk, reproduced on film or any other medium that is a trusted system and that does not permit additions, deletions, or changes to the original document, or reproduced on film, optical disk, or any other medium in compliance with Section 12168.7 for recording of permanent records or nonpermanent records.

(b) The device used to reproduce the record, paper, or document on film, optical disk, or any other medium is one which accurately and legibly reproduces the original thereof in all details and that does not permit additions, deletions, or changes to the original document images.

(c) The photographs, microphotographs, or other reproductions on film, optical disk, or any other medium are made as accessible for public reference as the original records were.

(d) A true copy of archival quality of the film, optical disk, or any other medium reproductions shall be kept in a safe and separate place for security purposes.

However, no page of any record, paper, or document shall be destroyed if any page cannot be reproduced on film with full legibility. Every unreproducible page shall be permanently preserved in a manner that will afford easy reference.

For the purposes of this section, every reproduction shall be deemed to be an original record and a transcript, exemplification, or certified copy of any reproduction shall be deemed to be a transcript, exemplification, or certified copy, as the case may be, of the original.

§ 34090.6. Destruction of recordings of video monitoring and telephone and radio communications

(a) Notwithstanding the provisions of Section 34090, the head of a department of a city or county, after one year, may destroy recordings of routine video monitoring, and after 100 days may destroy recordings of telephone and radio communications maintained by the department. This destruction shall be approved by the legislative body and the written consent of the agency attorney shall be obtained. In the event that the recordings are evidence in any claim filed or any pending litigation, they shall be preserved until pending litigation is resolved.

(b) For purposes of this section, "recordings of telephone and radio communications" means the routine daily taping and recording of telephone communications to and from a city, county and department, and all radio communications

relating to the operations of the departments.

(c) For purposes of this section, "routine video monitoring" means videotaping by a video or electronic imaging system designed to record the regular and ongoing operations of the departments described in subdivision (a), including mobile in-car video systems, jail observation and monitoring systems, and building security taping systems.

(d) For purposes of this section, "department" includes a public safety communications center operated by the city or city and county.

§ 34090.7. Destruction of duplicate city records; Video recording media

Notwithstanding the provisions of Section 34090, the legislative body of a city may prescribe a procedure whereby duplicates of city records less than two years old may be destroyed if they are no longer required.

For purposes of this section, video recording media, such as videotapes and films, and including recordings of "routine video monitoring" pursuant to Section 34090.6, shall be considered duplicate records if the city keeps another record, such as written minutes or an audiotape recording, of the event that is recorded in the video medium. However, a video recording medium shall not be destroyed or erased pursuant to this section for a period of at least 90 days after occurrence of the event recorded thereon.

§ 53921. Right to destroy paid or canceled bonds or coupons

Under such conditions as the treasurer of a local agency fixes, with the approval of the legislative body, he, or fiscal agents, or other duly authorized agents, may destroy or cremate any or all bonds and any or all coupons pertaining thereto which have been previously paid or canceled.

Relevant Attorney General Opinion

The following conclusions are those of California Attorney General Evelle J. Younger and California Deputy Attorney General George J. Roth. They were given in opinion number CV 72-291, dated June 20, 1974 (57 Op. Atty Gen. Cal.

307), and refer specifically to Government Code Sections 34090 and 34090.5.

The conclusions are:

1. Any city record, document, instrument, book, or paper which is not covered by the exceptions to Government Code section 34090 may be destroyed by a city department head provided he obtains the approval of the legislative body by resolution and also the written consent of the city attorney.
2. The Legislature intended that before any city record which is covered by the exceptions to Government Code section 34090 is destroyed two microfilm or other authorized type copies must be made and retained indefinitely.
3. Provided that copies of original city documents are made and preserved as set forth in Governmental Code section 34090.5, there is no requirement as to how long original documents must be kept before they are microphotographed and destroyed.
4. After prescribed copying and destruction, a mechanical [*4] "reader" must be made available to the public for microfilm and microfiche items. Copies of records and documents must be made for the public if requested.
5. The additional microphotograph or microfilm copy required by Government Code section 34090.5 may be made from the original document or from a microphotograph thereof.