

**CITY OF CARMEL-BY-THE-SEA  
POLICY AND PROCEDURE**

**Subject:** Records Management Program

**Policy/Procedure No:** C16-02

**Effective Date:** December 7, 2021

**Authority:** Resolution No. 2021-080

**Purpose:**

The purpose of this policy is to establish a citywide records management program for the proper and efficient management of records and to establish a records retention schedule for all City departments in compliance with applicable federal, state and local laws.

**Policy/Procedure:**

As set forth fully in the policy document attached.

**Responsible Parties:**

All City departments/divisions to include employees, elected and appointed officials, temporary workers, volunteers and contractors of the City who are acting on behalf of the City and who have access to, use of, or are involved in the maintenance or storage of the City's records.

The City Council shall approve, adopt, ratify, by resolution, all records management policies, and any amendments thereto.

**Department of Origin:**

Administration

**Revision Dates:**

Resolution 2020-080, December 8, 2020

**Rescinded Date:**

## CITY OF CARMEL-BY-THE-SEA

## POLICY NO. C2016-02

## RECORDS MANAGEMENT PROGRAM

**DEFINITIONS**

- **Active Records** – Records that are referred to at least once a month. Also – as a retention period for a Perpetual Record that remains “active” until some event occurs to change its status, at which time it has fulfilled its function. (See also **Perpetual Record**)
- **Administrative Records** – Records commonly found in all offices and used in the conduct of daily business. These are typically retained for short time periods. Examples include subject, chronological, work plans, and policy files.
- **Email** - Short for electronic mail, the transmission of messages over communications networks. The messages may include attachments of electronic files.
- **Inactive records** – Records that are accessed an average of less than once per month, but have not completed their full retention period. These records may be stored in a separate location from active files.
- **Local Government** – Government Code, Section 6252 states: “‘Local Agency’ includes a county; city, whether general law or chartered; city and county; school district; municipal corporation; district; political subdivision; or any board, commission or agency thereof; other local public agency; or nonprofit entities that are legislative bodies of a local agency pursuant to subdivisions (c) and (d) of Government Code, Section 54952.”
- **Non-Records** – Non-records are not retained in the ordinary course of business and may include, without limitation, the following materials to the extent that they have no significant or lasting value; electronic messages created for routine communication or in lieu of a telephone call; transmittal letters; acknowledgements, miscellaneous notices of community affairs, employee meetings or holidays, working files and materials that are considered personal, and papers, drafts, rough notes or calculations created and used in the preparation or analysis of records.
- **Permanent Records** – Records that are required to be kept in perpetuity, usually identified by statute or other written guidance. Examples include original minutes, ordinances, resolutions, land grant deeds, etc.
- **Perpetual Records** – Records retained as active files for an indefinite period of time and then stored or destroyed after some event takes place. Examples include personnel files which are active until a person terminates his or her employment; policy files kept until the policy is changed; contract files that are active until the contract terminates, then destroyed a fixed number of years later; current database information that is superseded; etc.
- **Program Records** – Records that relate to the primary function of the agency in response to its daily mission. Examples include lien files, recorders files, election files, probate records, medical records, etc.
- **Public Records** – For purposes of the California Records Act, 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.

- **Record** – A “thing which constitutes an objective, lasting indication of a writing, event, or other information which is in the custody of a public officer and is kept either (1) because a law requires it to be kept or (2) because it is necessary or convenient to the discharge of the public officer's duties and was made or retained for the purpose of preserving its informational content for future reference.” (64 Ops. Cal. Atty. Gen. 317, 326 (1981).)
- **Record Formats** – Records received or generated by the City in the course of its business, including paper documents, computer received and generated records in other formats such as microfilm, videos, audio recordings, photographs, maps, etc.
- **Records Management** – the systematic control of the acquisition, processing, use, protection, storage and final disposition of all records, including the establishment and maintenance of a system for filing and indexing records.

**Records Retention Schedule** – The document describing records maintained by City departments and specifying, in accordance with statutory requirements or evaluations, the period of time established for their retention which must elapse before the records may be destroyed.

- **Retention Period** – The length of time a record must be retained to fulfill its administrative, fiscal, historical and/or legal function. Then a record should be disposed of as soon as possible in accordance with an approved Records Retention Schedule.
- **Software** – Any system, program, application, instruction, or protocol designed to store, control or process data.
- **Vital Records** – Records required for daily operations and to resume those operations after a disaster. A Vital Records program protects records from the effects of the disaster and assists in recovery from the event.

## **PROGRAM SCOPE AND OBJECTIVES:**

### **Introduction**

The City of Carmel-by-the-Sea Records Management Program is designed to protect the City's information assets and manage them effectively by employing systematic methods for creation, maintenance, retention, disposition, and retrieval of official City records. Through application of sound record management practices, the program ensures the availability of records and information when needed by City staff and members of the public. These practices also ensure the elimination of unnecessary, redundant records, the preservation of records of continuing value for historical and legal value, and the destruction of records that are obsolete in accordance with established procedures once they reach their approved retention.

By controlling the life cycle of records from creation to final disposition, the City will better manage its information assets, facilitate efficient access to information when needed, provide documentation of compliance to state and federal agencies, and preserve the valuable history of the organization. Records that are not appropriately maintained or improperly destroyed expose the City to potential liability. The City Clerk's Office coordinates the Records Management Program in cooperation with all City departments. The City Clerk is also responsible for preserving the City's legislative history through permanent records such as minutes, ordinances, and resolutions.

### **Records Retention Schedule**

The Records Retention Schedule provides the foundation for the Records Management Program and plays a pivotal role in its implementation. The City Clerk maintains the retention schedule that covers each department of the City and updates the schedule on a periodic basis to accommodate Changes in federal, state and local laws. Amendments to the Adopted Records Retention Schedule shall be approved by the Department Head, the City Clerk, the City Administrator and the City Attorney.

The schedule, based on the Local Government Records Retention Guidelines (LGRRG), establishes mandatory minimum retention periods for all City records.

Transitory correspondence files, consisting of routine transactions, memoranda or emails holding no administrative, fiscal, historical, or legal value should not be retained. Documents that are not transitory in nature, not addressed in this schedule, and for which there are legal requirements or the records is essential either for legal, historical, fiscal or administrative value shall have a record series title assigned to them and shall be added to the retention schedule.

California Government Code, Section 34090.5 sets forth that if a record can be produced electronically and proper archival methods are set in place, the original may be destroyed, with the exception of those documents that are required to be kept permanently in their original format as outlined in the retention schedule. It is the goal of the City to move toward an electronic imaging program. Until an electronic system is in place, a concerted effort will be made to adhere to the retention schedule and to destroy all appropriate records that are being stored in various facilities throughout the City, and prepare archival material for electronic filing. This process will eliminate a large number of storage boxes and release space for other uses, as well as bring the Records Management Program into full compliance.

### **Email Retention Policy**

The City's email system is not intended to be used for the electronic storage or maintenance of City records. The email system, to function as intended, anticipates or requires that employees regularly delete communications from the system.

Routine email messages comparable to telephonic communications are non-records. They are not intended to be retained in the ordinary course of City business, and the informational content of such communications is neither necessary nor intended to be preserved for future City use or reference. Email messages and attachments comparable to hard copy documents that would be retained under the Records Retention Schedule should be categorized in the appropriate record series. It is each user's responsibility to remove non-substantive records from the email system. This includes items in "received" and "sent" folders.

### **Disposition**

City records are authorized to be destroyed on an on-going basis in accordance with the retention periods and best practices prescribed by the Records Retention Schedules set forth as part of this policy. This policy establishes procedures in accordance with Government Code Section 34090, which states that *"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."* However, Section 34090 specifically prohibits the destruction of the following records:

- a. Records affecting the title to real property or liens thereon;
- b. Court records or records relating to legal proceedings and subject to a legal hold;

- 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.

No department may dispose of any official City record prior to the expiration of its approved retention period or without following the procedure established in this policy.

### **PROGRAM AUTHORITY**

The City of Carmel-by-the-Sea Records Management Program is based on state and federal laws and agency guidelines governing public records. Numerous State and Federal codes and sections apply to different types of records. The principal California law applicable to City records is Government Code Section 34090 *et. seq.*, which requires original records to be retained a minimum of two years and sets forth other requirements. Each record series listed in the City-wide Records Retention Schedule has applicable laws cited in the “Legal Authority” column.

California has adopted guidelines for retention periods of government records. Any deviation from these guidelines is noted in the “Legal Authority” or “Record Description” sections of the Records Retention Schedule.

1. Government Code Section 34090 – City records may be destroyed with approval of the legislative body by resolution and written consent of the City Attorney, except those records affecting title to real property or liens thereon; court records; records required to be kept by statute; records less than two years old; the minutes, ordinances, or resolutions of the legislative body or of a city commission or committee.
2. Government Code Section 34090.5 – Certain City records may be destroyed without the approval of the legislative body or written consent of the City Attorney if they have been scanned in archival quality in a trusted system that does not permit additions, deletions or changes to the original document. These records shall also be kept in a safe and secure place, and on a device used to reproduce such records as accurately and legibly as the originals and as accessible to the public as the originals.
3. Government Code Section 6200 – Every officer having custody of any record, map, book or paper filed in a public office who is guilty of willfully destroying, altering or removing the whole or any part of such item is punishable by imprisonment in accordance with State law.
4. In addition, California Government Code § 60201 subdivision (d)(4) requires the City to maintain any document that “relates to any pending claim or litigation or any settlement or other disposition of litigation within the past two years.” Depending upon how long litigation remains pending or when settlement is reached, these “legal holds” can potentially extend the life of a document well beyond the otherwise applicable retention period set forth in the accompanying schedules. Departments will be notified of legal holds on specific documents by the City Attorney, City Administrator and/or City Clerk. Since legal holds commonly target a specific subject or set of information, documents unrelated to the legal hold may be disposed according to the approved retention periods.
5. The City Council shall approve, adopt, ratify, by resolution, all records management policies and any amendments thereto.

### **PROCEDURES:**

- All records should be retained and destroyed in accordance with the City’s Records Retention Schedule
- By following the adopted Records Retention Schedule, the City may authorize the destruction of records.
- Unless otherwise provided by federal, state and local law, the City Administrator/or designee may authorize the destruction of any original document which is more than two years old, with written consent from the City Attorney, without retaining a copy of the documents as long as the retention and destruction of the document complies with the Records Retention Schedule as set forth in this policy.
- At least annually, the City Clerk will coordinate with City departments in reviewing records against the Records Retention Schedule to apply retention in a routine and consistent manner. Retention of records will be applied to shared drives, personal drives and external storage devices such as thumb drives.
- Records that have met retention according to the adopted Records Retention Schedule may be destroyed upon written approval of the Department Head, City Attorney, City Administrator and City Clerk.

- Department Heads will sign and provide to the City Clerk a list requesting destruction of records according to the Records Retention Schedule.
- The City Clerk will ensure records that have met retention are destroyed in a secure, efficient, and economical manner including using a shredding company and working with Information Technology staff.
- Records that have met retention pursuant to the adopted Records Retention Schedule and must be retained pursuant to a Litigation Hold will not be destroyed until the records have been released by the appropriate entities.

**Responsibilities:**

- The City Clerk is responsible for coordinating the Records Management Program for the City including:
  - Developing and implementing an archival program for the storage of records regardless of the manner in which they are stored
  - Providing the training and tools necessary for officials and employees to comply with this policy
  - Working with a vendor that houses those physical records no longer required in office areas and have not met their legal retention.
- The City Clerk is responsible for maintaining an electronic copy of the City's Records Retention Schedule.
- The City Attorney, City Administrator and City Clerk are responsible for reviewing updating and approving the City's Records Retention Schedule in accordance with federal, state and local laws.
- Officials and employees are responsible for protecting, storing, transferring, using and managing the City's records in accordance with the City's Records Retention Schedule and applicable federal, state and local law. Additionally, officials and employees are responsible for ensuring the economical and efficient maintenance and storage of records and promoting security of records in the most effective media format appropriate for preservation.