



Administrative Directive

Title: Records Management		Index Number: AD 2.10
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1.0 **Purpose and Need**

The City of Virginia Beach depends on information assets and data to develop and deliver services, make critical strategic decisions, manage projects, and serve the needs of citizens. An organized records management program is necessary to assure the integrity, protection and availability of public records we create during these processes. This directive establishes the general responsibilities for the management of city records to assure their availability, integrity, protection, and proper disposition.

Included in this responsibility are all city departments functioning within the City of Virginia Beach. This directive applies to all departments, divisions, agencies, employees, contractors and volunteers that develop, implement, administer, have custody of or use City of Virginia Beach information and data. The success of this program is dependent on the cooperation of each organizational unit. The program is mandatory and is needed to enable compliance with our obligations under the Virginia Public Records Act (VPRA).

Records Management is an administrative process for managing information assets and is a vital component of our daily work lives. Our mission is to ensure all federal, state and local records retention requirements are met. The program exists to ensure the records we create to document our government's businesses are properly maintained and protected.

The purpose of our program is to:

- Provide a uniform method of maintaining the city's records
- Conduct and/or instruct city members in the performance of records inventories
- Establish and follow records retention schedules developed by the Library of Virginia (LVA)
- Identify historical and permanent records and ensure their protection and proper storage
- Store inactive records in a cost-effective and secure location
- Destroy records in a timely and systematic manner and document their destruction
- Enable citizens to judge conduct of our government by providing accountability
- Assist in identifying and preserving vital records
- Develop a disaster preparedness plan to protect and recover records in the event of a disaster

The benefits of a compliant records program include:

- Locating records in a timely fashion for FOIA requests, litigation, investigation or audits
- Reducing liability risks by keeping records according to an authorized retention schedule
- Ensuring timely and proper destruction of city records thereby reducing the volume we store
- Improving records storage and records retrieval systems
- Allowing information to be open for observation and access while safeguarding privacy
- Increasing efficiency of office operations and reducing costs
- Reducing redundancy/duplication
- Assuring historical documentation of government's actions

2.0 **Administrative Directive**

As a political subdivision of the Commonwealth, our city is mandated to comply with the VPRA, Va. Code. §§ 42.1-76 *et seq.* The VPRA establishes a single body of law, applicable to all public officers and employees, to ensure that the procedures used to manage and preserve public records will be uniform throughout the Commonwealth.

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The VPRA vested the archival and records management function in the State Library Board. The program is managed through the LVA. Program guidance is contained in the Virginia Public Records Management Manual and provides essential information to records officers and others who have responsibility for public records.

Public officials and employees are legally responsible for creating and maintaining records that document the transactions of government business. Public officials must maintain these records according to established retention requirements regardless of the format in which they are kept. These public records must be protected and made available for appropriate access throughout their stated retention period.

3.0 Procedure to Accomplish Administrative Directive

Records retention information is provided by the LVA, and the schedules are located on the [LVA website](#). The general schedules list record series types and provide instructions for their care including how long they are to be maintained and procedures for their disposal.

Records cannot be destroyed before the end of the stated retention period nor should they be retained longer unless they are needed for an active investigation, litigation or an audit. Records cannot legally be destroyed without a Certificate of Records Destruction (RM-3) form.

3.1 *Records Transfers to Long Term Storage*

Inactive records that are no longer needed to be retained in city offices should be sent to the Records Center for long-term or permanent storage (if applicable). Use of standard records storage boxes (10"x12"x15") is mandatory and these boxes are available from the Records Management Office (RMO).

An inventory of the box contents is required and must be included in the front of each box to aid in retrieval of specific files and information.

City records must have a minimum remaining retention period of one year in order to be eligible for transfer to the Records Center.

3.2 *Records Storage and Retrieval*

Records are available for retrieval after they are submitted to the Records Center. Contact the RMO for this purpose, and your requests will be processed. All requests should be submitted via city email using the staff email account recmgmt@vbgov.com. All requests must be received by 4:00 pm to be delivered to the requesting agency the following business/work day. Only the specific file requested will be retrieved; an entire box is retrieved and delivered only when specifically requested.

City, school and court agencies retain ownership of their records when they are stored in the Record Center. RMO becomes the custodian of your records, and access to the records is strictly controlled. No city agency or office may access these records without specific authorization in writing or by direct communication with the staff of the RMO. RMO will not release records to any agency other than the owning agency and does not release or allow access of records directly by the general public.

3.3 *Records Disposition*

Records that no longer have administrative, legal, fiscal or historical value and are beyond their legal retention period should be destroyed. Records that are required for legal audits, active investigations or litigation may not be destroyed until the required action is completed. The RMO will conduct periodic reviews for records in the Records Center for destruction eligibility. The RMO will notify each agency of the impending destruction of their boxes and process the required destruction request form for agency/department approval.

Records can be destroyed only after the Public Records Manager authorizes the RM-3 form. After destruction of the records, the RM-3 is signed and dated to certify destruction and returned to the RMO. As stipulated by LVA, a copy will be retained for three years by the RMO, and all original RM-3 forms will be forwarded by the RMO to the LVA as required for evidence of proper disposal.

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The type of information contained in the record and its format determine the method of disposition. Usually, disposition by recycling or daily waste pickup is appropriate. However, if records contain personal, private or confidential information, they must be destroyed to prevent unauthorized access. This includes shredding and pulping. Electronic data should have originals and copies (duplicates, backup tapes, printed copies) destroyed at the same time. "Deletion" of confidential or privacy-protected information in computer files or other electronic storage media is not acceptable. Ultimate destruction of electronically stored data is accomplished through overwriting or physically destroying media.

3.4 Records Reformatting

Paper documents can be converted to an electronic record or microfilm, however, reformatting should be considered carefully. Before deciding to reformat records, explore alternatives such as destroying records that have legally passed their retention dates, purging unnecessary files and duplicate information, or transferring eligible records to long-term storage. Low use, inactive paper records with retention periods of less than twenty (20) years generally should be kept in their original form and stored in the most secure, environmentally-controlled, fire-protected, low-cost space available.

Large scanning projects may be completed using the city's imaging contract. For additional information on the imaging contract, contact the Information Technology (IT) Service Desk. IT will assist with technical issues relating to scanners, computer capability and software acquisition/installation. The Public Records Manager is available to provide advice and guidance on retention and destruction management.

Microfilm and paper are the only two standard mediums approved by the LVA for preserving permanent and archival records.

3.5 Disaster Recovery

It is often an assumption that neither a natural nor man-made disaster will strike our workplaces. However, Virginia Beach has been subject to severe flooding, hurricanes, tornadoes, military jet crashes, and other disasters in the past, reinforcing the need to have a plan for protecting public records. In fact, most records disasters do not make headlines. Everyday problems such as leaky roofs and pipes can also take a toll on records and create an emergency event. A single soaked box of records can spell disaster if the information is valuable (historical), irretrievable and irreplaceable. Please refer to the Records Management Manual to assist you in preparation of an emergency plan for your department or agency.

4.0 Responsibility and Authority

Library of Virginia (LVA). The LVA is responsible for oversight of records management within the Commonwealth of Virginia. The city's program must be compliant with state mandates for records management.

The LVA offers a wide range of services to support state agencies and localities with the efficient and economical management of public records. Under the authority of the VPRA, as well as other state statutes and regulations, the Commonwealth ensures public records exist and are available throughout their life cycle. To achieve this, the Commonwealth publishes records retention and disposition schedules, offers consultation and assistance to state and local offices, reviews the disposal of non-permanent records, and assists with the transfer of permanent and historically significant records to the State Archives.

Compliance with stated retention periods is mandatory.

City Ordinance Authority. The Code of the City of Virginia Beach, Virginia (§§ 2-341 through 347.1) pertaining to the management and preservation of public records requires an orderly and efficient system of records management in accordance with the provisions of the VPRA. It requires a comprehensive program for the management of city records from their creation to their ultimate disposition.

City Records Officer. The Public Records Manager, Department of Public Libraries, will serve as the designated records officer for the City of Virginia Beach in compliance with the Code of Virginia § 42.1-85.

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This statute requires each political subdivision of the Commonwealth to designate at least one records officer to serve as liaison to the Library of Virginia.

Department Directors. Each Department Director will ensure that one individual is assigned the department's record management responsibilities and serves as liaison to the Records Manager.

Department Records Liaison. The liaison will provide support in the implementation of this directive and will be responsible for reviewing and signing destruction requests for their department against any pending litigation holds, audits and/or investigations. They will support the Records Management program, help ensure compliance, and implement ongoing communication within their department regarding records activities. Individuals assigned as Liaison are required to acquaint themselves with the regulations that govern our program as outlined in this directive.

City Employees. Every city employee is a records creator and/or user. As custodians and/or owners of city records, it is important to remember:

- Records are the property of the city, not any one employee or official.
- Do not remove or allow city records in your care to be removed from your department or from city property without the prior approval of the RMO.
- Determine and apply the level of protection appropriate to the sensitivity of the records and/or information under your care.

5.0 Definitions

Archival records are permanent records determined to be of sufficient historical, continuing or enduring value to warrant the added cost of storage, conservation and preservation in an archival facility.

Confidential Records are records that are restricted from disclosure by statute, court order, or legally adopted rules and regulations.

Current/Active Records are records used to conduct the day-to-day business of the organization.

Essential/Vital Records are essential to the continued life or operation of an organization, the continuation and/or resumption of operations following a disaster, the protection of rights and property of government and citizens, or the re-creation of the legal and financial status of the organization in the event of a disaster. Examples could include purchasing records, contracts, personnel records, Memoranda of Understanding (MOUs), payroll records, and research documentation. These records, for the most part, are classified as non-permanent.

Non-Current/Non-Active Records are records whose specific action has been completed. They are no longer needed to conduct the day-to-day business of the organization but have not reached their designated destruction date.

Non-records are convenience, courtesy or information-only copies of a record such as a reading file or a duplicate copy that is disposed of after use. Other non-records may include, but are not limited to, reference books and materials, extra copies and stocks of publications, and are not included with the definition of public records and are not eligible for long-term storage.

Permanent Records are records that require permanent retention based on administrative, fiscal, legal or historical values. (*see Archival Records*)

Public Records are any recorded information that documents a transaction or activity by or with any public officer, agency or employee of the state government or its political subdivisions, regardless of physical form or characteristic. The recorded information is a public record if it was produced, collected, received or retained in pursuance of law or in connection with the transaction of public business.

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Upon separation from employment with the city, emails contained within a departed city employee's email account shall be deemed potential Public Records for purposes of Records Retention and Disposition Schedules.

Formats include, but are not limited to, paper, film, magnetic, optical or solid state devices which can store electronic signals, tapes, mylar, linen, silk or vellum. General types of records may include, but are not limited to, books, paper, letters, documents, printouts, photographs, films, tapes, microfiche, microfilm, photostats, sound recordings, maps, drawings and any representations held in computer memory.

Records Center is the city's storage facility; it is an environmentally controlled facility that houses non-current and permanent records for city, state and school agencies. The Records Centers are not continually manned, therefore, city members must contact the RMO to access their records stored in the Records Center.

Records Retention and Disposition Schedules are LVA-approved documents listing the description of records grouped by common function, the length of time they must be kept, and the required method of destruction.

6.0 Specific Requirements

1. **Suspension of Records Retention and Disposition Schedule**

When the city or one or more of its employees are on notice that litigation is reasonably anticipated, threatened, or pending (hereinafter referred to as a "reasonable anticipation of litigation"), a duty arises requiring the preservation of records and tangible evidence that is relevant to such litigation. In this situation, the Records Retention and Disposition Schedules are suspended for records reasonably related to the Litigation Hold.

Litigation Hold. A Litigation Hold includes a system of measures for the purpose of identifying, preserving and protecting records and tangible evidence that is potentially relevant to a specific and identifiable litigation. Records under a Litigation Hold shall not be destroyed even when permitted by the applicable Records Retention and Disposition Schedule, but rather, may only be subject to the standard Records Retention and Disposition Schedule once the Litigation Hold is lifted by the Office of the City Attorney ("City Attorney")

Triggering Event. The duty to preserve records subject to a Litigation Hold arises when the city or one or more of its employees have a reasonable anticipation of litigation. Upon notice of such "triggering event," employees shall report the event to their supervisor who will then forward that information to the City Attorney. If there is any doubt about whether a letter, notice, or similar event triggers a Litigation Hold, the employee shall immediately report to their supervisor, who shall consult with the City Attorney for guidance. Examples of events that may trigger a Litigation Hold include any of the following:

- i. The receipt of a summons or complaint naming the city and/or employee(s) as a party;
- ii. The receipt of a subpoena wherein the city and/or employee(s) is/are named a party;
- iii. Formal notice that the city and/or employee(s) is/are the target of a governmental investigation;
- iv. Notice from the City Attorney that the city is seriously contemplating litigation; or
- v. The receipt of a preservation letter from a party threatening litigation against the city.

Reasonable Anticipation of Litigation. "Reasonable anticipation of litigation" occurs when an individual becomes aware of a credible probability that the city and/or its employee(s) will be involved in litigation, when the city is seriously contemplating litigation, when specific actions toward litigation are taken, or litigation is reasonably anticipated. Whether there is a reasonable anticipation of litigation shall be based on good faith and a reasonable evaluation of relevant facts and circumstances. For purposes of this policy, "reasonable anticipation of litigation" does not include matters brought before the Virginia Employment Commission, the Virginia Workers' Compensation Board, the City's Personnel Board, or other administrative tribunals, Virginia state courts not of record, or civil cases where the city or its employee(s) are reasonably anticipated to be a party and the amount in controversy is reasonably anticipated to not exceed \$25,000. The receipt of a state law notice of claim under § 15.2-209 of the Code of Virginia, by itself, shall not trigger a Litigation Hold because of the city's experience that so few of such notices result in actual litigation.

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Procedure. Upon a finding by the City Attorney of the reasonable anticipation of litigation, the City Attorney will issue a Litigation Hold memorandum. This memorandum will set forth the scope of the records to be preserved and will identify the employees and/or departments subject to the Litigation Hold. Compliance measures taken by the employees and/or departments in response to a Litigation Hold shall be documented and forwarded to the City Attorney. The employees and/or departments shall comply with the Litigation Hold until such time as the City Attorney provides notification that the Hold has been released.

Litigation Hold Scope. The Litigation Hold potentially covers all records, regardless of form, made or received in connection with the transaction of the city's business. After the initiation of a Litigation Hold, all determinations of the scope of such hold shall be made by the City Attorney. The nature of the issues involved in the litigation, the relationship between the parties, the city's experience with similar claims, the amount of money involved in the claims, and the strength of the claim or anticipated claim must be considered when determining the scope of the records to be preserved.

Demonstration of Good Faith. The adoption and implementation of this records management directive and the consistent implementation of a document retention process demonstrates good faith in meeting preservation obligations.

Compliance Monitoring. The City Attorney, together with IT and Records Management, shall monitor the Litigation Hold to ensure ongoing compliance. Records Management will confirm litigation holds with all departments that submit records destruction requests prior to the approval of such requests.

Release of a Litigation Hold. Only the City Attorney may release a Litigation Hold. Such release occurs after the duty to preserve records in anticipation of litigation is no longer required. Once the Litigation Hold is released, the standard Records Retention and Destruction Schedule shall resume.

2. Separation from Employment

Upon separation from city employment, emails contained within a city employee's email account shall be retained by the city for a period of three (3) calendar years from the departed employee's date of separation. It shall be the primary responsibility of Information Technology to ensure retention of a departed employee's email account for the three (3) calendar year period in cooperation with the Department Directors.

Prior to the final deletion or destruction of emails contained within the departed employee's email account upon the passage of three (3) calendar years after the employee's date of separation, an RM3 (Certificate of Records Destruction Form) shall be completed by the City Records Officer and certified and signed by the departed employee's Department Director that such records may be deleted or destroyed. It shall be the primary responsibility of Information Technology, in cooperation with the City Records Officer and the Department Directors to ensure ongoing compliance with this paragraph.

3. Prevailing Law

In the event that amendments are made to the VPRA, the FOIA, or the LVA's Retention Schedules or Virginia Public Records Management Manual that are inconsistent with any provision of this Directive, those amendments shall supersede the inconsistent provisions of this Directive.

Resources and References

- [Virginia Public Records Act \(VPRA\)](#)
- Library of Virginia (LVA) [General Retention Schedules](#)
- [Virginia Public Records Management Manual](#)
- [Records Management on beachnet](#)

Approved as to Content:



 Director, Department of Public Libraries

01/14/2019

 Date

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