



## **Administrative Regulations Office of the Mayor**

**Title:** VIRGINIA PUBLIC RECORDS POLICY

**A.R. Number:** 7.2 **Effective Date:** 2/1/2007 **Page:** 1 of 7

**Supersedes:** Virginia Public Records Policy **A.R.:** 3.5 **DATED:** 9/1/2004

### **I. PURPOSE**

The purpose of this regulation is to provide for the orderly maintenance of, access to and disposition of the public records of the City of Richmond in accordance with provisions of the Code of Virginia and the Code of the City of Richmond.

### **II. APPLICATION**

The policies and procedures set forth in this regulation shall apply to (i) all agencies of the City of Richmond (ii) all agencies of the Commonwealth that deposit public records in the City Records Center and (iii) citizens who may use the records stored in the City Records Center.

### **III. DEFINITION**

The term "public record" refers to "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 is produced, collected, received or retained in pursuance of law or in connection with the transaction of public business." Va. Code Ann. § 42.1-77. Types of public records may include, but are not limited to, letters, photographs, magnetic tapes, e-mails and reports. Non-current public records of continuing and enduring value are appropriate for archive if they have one of the following values:

- A. Administrative: Records that have continuing utility in the operation of an agency
- B. Legal: Records that document actions taken in the protection and proving of legal or civil rights and obligations of individuals and agencies.
- C. Fiscal: Records that verify and document financial transactions, obligations and authorizations.
- D. Historical: Records that contain unique information, significance, or an ability to convey an understanding of the operations of government, regardless of the record's age.

### **IV. POLICY**

#### **A. Ownership of Records**

Records on deposit in the City Records Center are the property of the City of Richmond and in particular the agency that created them, not of the creator.

#### **B. Confidentiality of Records**

Those records that are confidential or private do not lose that status by being placed in the City Records Center. Va. Code Ann. § 42.1-78); Richmond City Code § 2-382 (1993).

#### **C. Retention Requirements**

In compliance with the Virginia Public Records Act, Va. Code §§ 42.1-70—42.1-91, the City and all of its agencies adhere to the General Schedules for Local Governments in Virginia promulgated by the Library of Virginia. These schedules specify the length of time that the City must retain various categories of records in order to comply with state law.



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**D. Requirements before Destruction**

No record shall be destroyed without:

1. The written consent of the Agency Head or his written designee;
2. An approved retention/disposition schedule of the Library of Virginia in place;
3. The written approval of the City Records Manager; and
4. Completion of the Commonwealth of Virginia form RM3.

**E. Access to or Removal of Records**

1. No records deposited in the City Records Center by one agency's staff may be accessed by another agency's staff without the written consent of the depositing agency's Agency Head, unless such access is pursuant to:
  - a. investigative powers set forth in the Charter of the City of Richmond or the Code of the City of Richmond;
  - b. a request by the Chief Administrative Officer (CAO) or Deputy CAO, or
  - c. a federal or state entity acting in accordance with either statutorily authorized investigative powers or the written order of a court of competent jurisdiction.
2. No record may be removed from the custody of the City Records Manager without a written request documenting the details of the withdrawal.
3. No public records shall be removed from the place in which they were created or in which they are retained upon the separation of the employee who is custodian. Public records may be carried away by city employees who are using the records in the course of their duties.
4. The City prohibits employee possession of cameras or use of camera phones in the workplace to secure employee privacy and any confidential and/or proprietary City information.

**V. PROCEDURE**

**A. In General**

1. Data Collection and Dissemination Practices - State law requires that record-keeping systems which include personal information about identifiable individuals comply with certain standards regarding the collection and dissemination of personal information. {Government Data Collection and Dissemination Practices Act, Va. Code Ann. §§ 2.2-3800—2.2-3809}. In order to assist the City in complying with this law, the City Records Manager (i) maintains an "access list" of all persons who are authorized to have regular access to any given set of records deposited in the City Records Center—usually certain employees of the depositing agency—and (ii) maintains for a period of three (3) years a list of all persons who access records deposited in the City Records Center. Each individual agency is responsible for the compliance of its data-gathering systems with this law.



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2. Electronic Mail - Records preserved in electronic media, including but not limited to electronic mail ("e-mail"), are subject to records retention requirements if not retained in some other medium (e.g., paper). The following general principles apply to e-mail records:
  - a. E-mail is a generic term that refers merely to a medium, like paper or microfilm, in which records are kept. The retention requirements for e-mail are the same as for any paper record. Agencies and their employees are responsible for maintaining copies of all public records created, stored or received electronically.
  - b. Copies of e-mail may be printed on paper and filed according to the General Schedules promulgated by the Library of Virginia. In the alternative, agencies may seek the assistance of the Department of Information Technology in maintaining an electronic archive of e-mail.
  - c. More information concerning the application of records retention legal requirements to e-mail is available from the Library of Virginia on the World Wide Web at the URL address <http://www.lva.lib.va.us/whatwedo/records/electron/index.htm>.

*See A.R. 2.6 concerning Electronic Media Systems for guidelines on the use of electronic media systems, including but not limited to e-mail.*
3. Freedom of Information - Unless a specific exclusion from its requirements applies, the Virginia Freedom of Information Act ("VFOIA") requires the disclosure to Virginia citizens of records "prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business." {Va. Code Ann. § 2.2-3701 *See A.R. 3.1 concerning Freedom of Information for guidelines on complying with VFOIA, {Va. Code Ann. §§ 2.2-3700—2.2-3714.}*}
4. Records Retention - As noted above, the City adheres to the General Schedules promulgated by the Library of Virginia pursuant to the Virginia Public Records Act, {Va. Code §§ 42.1-70—42.1-91}. These schedules are available on the World Wide Web at the URL address [http://www.lva.lib.va.us/whatwedo/records/sched\\_local/index.htm](http://www.lva.lib.va.us/whatwedo/records/sched_local/index.htm) and by written request to the City Records Manager.

### B. Responsibilities of City Records Manager

Pursuant to section 42.1-85 of the Code of Virginia and section 2-384 of the Code of the City of Richmond, the City Manager shall appoint a City Records Manager to perform duties including, but not limited to, the following:

1. Implementing and overseeing a records management program. Va. Code Ann. § 42.1-85
2. Coordinating legal disposition, including destruction of obsolete records. Va. Code Ann. § 42.1-85.
3. Providing for the safekeeping, security and preservation of public records entrusted to his care and keeping. Richmond City Code § 2-385(1) (1993).
4. Operating the City Records Center to house and preserve inactive records prior to disposition. Richmond City Code § 2-385(2) (1993).



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5. Providing appropriate instruction in records management techniques to agency staff. Richmond City Code § 2-385(3) (1993).
6. Approving and reporting the destruction of public records of the City of Richmond destroyed in the course of business. Richmond City Code § 2-385(4) (1993).
7. Ensuring that the Library of Virginia creates and approves appropriate records retention and disposition schedules where they do not exist already.

### C. Agency Responsibilities

Each Agency Head shall designate annually in writing an employee of his agency to serve as the agency's Records Management representative with the City Records Manager. This Records Management representative shall (i) approve the destruction of public records of the agency, (ii) arrange for the transfer of agency records, (iii) advise the City Records Manager of special or unusual records management problems in the agency and (iv) perform other such duties as may be set forth in section 2-386(4) of the Code of the City of Richmond or assigned by the Agency Head. Each Agency Head shall be responsible for his agency's compliance with the requirements of section 2-386 of the Code of the City of Richmond.

### D. Storage Procedures

1. Procedures for Deposit - Depositing agencies shall deposit collocated records to be stored in the City Records Center only in accordance with the written procedures established the City Records Manager and only in unmarked containers that he has approved. These written procedures are set forth in the Administrative Correspondence of the City Records Manager. Copies of the Administrative Correspondence are furnished to each agency's Records Management representative and may be obtained from the City Records Manager upon request.
2. Transfer Sheet - Depositing agencies shall be responsible for the transportation of records to the City Records Center and assistance with shelving. Depositing agencies shall not bring records to the City Records Center without the prior consent of the City Records Manager, except in dire emergencies and only then at the explicit request of the Agency Head. The City Records Manager may refuse to accept records presented in damaged or unmarked containers. A typewritten transfer sheet, placed inside the container, shall accompany all deposited records. Each container shall have a separate transfer sheet. The City Records Manager shall specify the form of the transfer sheet and depositing agencies shall use only transfer sheets that conform to the City Records Manager's specifications.
3. Storage Containers - Each agency shall provide the necessary containers at its expense. The City Records Center has a limited supply of standard 1 c/f containers, available on a first come, first served basis. The City Records Center can accept records requiring special containers, but the depositing agency shall pay for any special containers or conservation devices such as photographic negative holders. The City Records Manager shall assist in locating appropriate archival storage containers and shall advise agency staff of costs.
4. Binding or Rebinding - In cases in which books or annual reports require binding or rebinding, the City Records Manager shall see that this is done at the depositing agency's expense. The City Records Manager may refuse to accept records needing binding, rebinding or other conservation measures if the depositing agency does not agree to pay that expense.



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5. Receipt of Records - Upon accessioning the records—not later than forty-eight (48) hours from arrival—the City Records Manager will furnish the depositing agency a duplicate copy of the completed transfer sheet, showing the Records Center number, the date of accession and the prospective date of destruction, if any. If the agency should require later access to the records, its Records Management representative shall provide the City Records Center with the Records Center number at the upper right hand corner of the Records Center transfer sheet.
- E. Procedures for Access to Records
1. Persons Authorized to Access Records - Under ordinary circumstances, only staff in the depositing agency may access records on deposit in the City Records Center without the prior written consent of the depositing agency's Agency Head or Records Management representative. The City Records Manager will document separately to the Agency Head access by anyone not on the appropriate regular departmental access list after the Agency Head has consented to the access.
  2. Persons Authorized to Access Records - Under ordinary circumstances, only staff in the depositing agency may access records on deposit in the City Records Center without the prior written consent of the depositing agency's Agency Head or Records Management representative. The City Records Manager will document separately to the Agency Head access by anyone not on the appropriate regular departmental access list after the Agency Head has consented to the access.
  3. Documentation of Access and Retention of Documentation - No record shall be used without the documentation of that use on a standard, pre-printed, sequentially-numbered, "City of Richmond Records Request Form." The form shall bear the name and the agency (if a City employee) or full address and telephone number (if not a City employee) of the user. The City Records Center shall give the user the pink slip and retain the remainder of the form. Upon the completion of the use and the return of the records, the City Records Center shall sign and date the user's pink slip and return the pink slip to the user. The remainder of the Records Request Form will be retained by the City Records Center for three (3) years after the Fiscal Year of the use. The data on the form above will be placed on the electronically maintained withdrawal file. This procedure shall apply to all records, whether or not subject to the Government Data Collection and Dissemination Practices Act, Va. Code Ann. §§ 2.2-3800—2.2-3809 .
  4. Agency Access List - The Agency Head shall sign and forward to the City Records Manager annually a list and specimen signatures of those individuals authorized to (i) withdraw and (ii) destroy public records of that agency. Under ordinary circumstances, only those individuals whose names and signatures with which the Agency Head has furnished the City Records Manager will be allowed to withdraw records. If an urgent need exists and is confirmed by the City Records Center, the City Records Center may release a record; however, the City Records Center shall notify the Agency Head of the depositing agency of the release in writing. The City Records Manager will require the Agency to update this list annually or more frequently, if necessary.



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5. Access Pursuant to VFOIA - If an entitled citizen makes a freedom of information request pursuant to VFOIA, the following procedure shall apply:
  - a. The City Records Center shall adhere to all procedures set forth in A.R. 3.1 concerning Freedom of Information when handling freedom of information requests.
  - b. The City Records Center shall collect and retain data from the requester as prescribed by (V)(E)(2) above.
  - c. The City Records Center shall notify the Agency Head of the depositing agency of the request upon receipt.
  - d. If the Agency Head or Records Management representative does not evince a desire to handle the request in another statutorily-permissible manner within forty-eight (48) hours of notification by the City Records Center, then the City Records Center shall adhere to the following procedure:

If there is no doubt that the requested records are subject to VFOIA's disclosure requirements (i.e., that no exclusion applies or that no law requires the record's withholding), then the City Records Center shall make the requested records available to the requester for inspection and copying; however, under no circumstances shall the requester be permitted to remove any record from the City Records Center premises.

If there is doubt as to whether the requested records are subject to VFOIA's disclosure requirements (i.e., a belief that an exclusion may apply or that a law may require the record's withholding), then the City Records Center shall consult with the City Attorney as prescribed in A.R. 3.1 concerning Freedom of Information and act accordingly.

The City Records Center shall respond to the request in writing and furnish the Agency Head with a copy of the response.

5. Copies of Records - The City Records Center shall supply copies of records at no cost to City agencies, to any other governmental agency acting under color of law, or in response to an order entered by a court of competent jurisdiction. The City Records Center shall supply copies to other requesters subject to payment of the costs as specified in A.R. 3.1 concerning Freedom of Information. The amount collected shall be noted on the Records Center request form. Monies collected for copying shall be paid into the City's General Fund in accordance with normal procedures.
6. Tracking of Withdrawn Records - An agency may use original records that the City Records Center provides to that agency pursuant to this regulation for thirty (30) days. The City Records Center will notify the using agency when thirty (30) days have elapsed since the withdrawal of a record. The City Records Center will attach a copy of the thirty-day notification to the original request form. If the using agency chooses to retain the record, the City Records Center will confirm that choice in writing to the Agency Head and will keep the Records Center request form until the record is returned. When the record is returned, the City Records Center shall note the return on the original request form.



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F. Procedures for Destruction of Records

1. Authorization Required - No public records of the City of Richmond shall be destroyed unless they have been scheduled for destruction on an approved Records Management Schedule of the Commonwealth of Virginia and a local schedule of the City of Richmond and have been noted on a completed RM3 form signed by the City Records Manager in his capacity as the City's "records officer" designated pursuant to section 42.1-85 of the Code of Virginia.
2. Notification of Agency Prior to Destruction - Between thirty (30) and sixty (60) days before the anticipated date of destruction, the City Records Manager shall forward to the Agency Head or the agency's Records Management representative a written request for destruction. The request shall

contain the Records Center numbers of the records to be destroyed, the contents of the records, the number of times the records have been used in the three-year period preceding destruction, and any data deemed worthy of mention by the City Records Manager. The Agency Head or the Records Management representative shall indicate in writing his concurrence or non-concurrence with the scheduled destruction and shall date and sign the document. If the Agency Head or the Records Management representative fails to reply, the City Records Manager shall make one further inquiry. If the Agency Head or the Records Management representative still fails to reply, the City Records Manager may at his option either decline to accept further records from the agency or destroy the records as scheduled without further notice to the agency's staff.

3. Records of Destruction - For three (3) years after the Fiscal Year of the destruction, the City Records Manager shall retain a package containing his original request for destruction and the action taken upon it, the transfer sheets showing the records that were stated to be contained in the Records Center container and a copy of the certificate of destruction filed with the Library of Virginia. The destruction packages shall be destroyed three (3) years after the close of the fiscal year of destruction, and that destruction shall be documented appropriately.

**VI. AUTHORITY**

Virginia Public Records Act, Va. Code Ann. §§ 42.1-76—42.1-91 (Michie 2002 & Supp. 2003).  
Richmond City Code §§ 2-381—2-388 (1993).

**VII. REGULATION UPDATE**

The Office of the Mayor and the City Records Manager shall be responsible for modifications to this Regulation.

**APPROVED:**

**MAYOR**