PURPOSE

Records are a basic tool of government administration. They provide information for planning and decision making, serve as the foundation for government accountability, and are subject to direct legal requirements. It is essential that records be retained as long as needed to meet legal and informational needs, and then be disposed of appropriately. The purpose of this policy is to provide guidelines for the retention and disposition of City of San José records.

AUTHORITY

San Jose City Council Resolution Number 68648 directs that:

1. All City records must be retained in accordance with the minimum time periods set forth in Government Code Section 34090 et seq., after which time those records that are no longer required may be destroyed upon the written consent of the City Attorney;

2. Any original copy of a City Record may be destroyed prior to the minimum retention period if it has been photographed, micro-photographed, or electronically reproduced and the resulting reproduction is retained in accordance with the written consent of the City Attorney as described above; and

3. Duplicates of original City records may be destroyed at any time as long as the original is appropriately retained.

SCOPE OF APPLICATION

This policy applies to all City officials, departments, employees, volunteers, or contractors, and to all City records.

POLICY

All City records as defined by this policy are the property of the City and may not be destroyed, given away, sold, retained by officials and employees leaving City service, or otherwise disposed of in any way except in a manner consistent with a retention schedule approved by the City Attorney or other written documentation of approval by the City Attorney. City records shall be retained for the time periods prescribed by approved retention schedules and then destroyed unless needed for ongoing or expected litigation or audits, or for continuing informational value. Each City department must develop a records retention schedule to govern the retention of its records.

DEFINITIONS

The following definitions will apply to this policy.

1. **Record(s)**

   “Record” or "records" means any recorded information, regardless of media or format, created or received by any City official, department, employee, volunteer, or contractor in the course of official business and retained as evidence of the organization, functions,
policies, decisions, procedures, operations, or other activities, or because of the value of the information therein. Library materials made or acquired and preserved solely for reference, blank forms, stocks of publications and processed documents, drafts not ordinarily retained in the normal course of business, and copies of records retained solely for the convenience of the user are not considered records.

2. **Records Series**

A category of related records that are normally used and managed as a unit and that have the same retention period.

3. **Records Retention Schedule**

Records retention schedule means a document that lists the records series retained by a department or multiple departments and indicates how long each of those records series will be retained.

4. **Citywide General Records Retention Schedule**

A records retention schedule that applies to records common to multiple departments.

**RESPONSIBILITIES**

**Department Records Administrators**

Each department shall designate a person or persons who will be responsible for the development, revision, and use of records retention schedules for the department; for conducting regular and periodic reviews of approved schedules to determine their continuing accuracy, completeness, and relevance; for coordinating the storage of the department’s inactive records; for destruction of department records according to approved retention schedules; and for representing the department on all records retention issues. These individuals must be thoroughly familiar with the organization, staff, and functions of the entire department. They must understand and be able to communicate the importance of records and proper records retention, and the purpose and use of records retention schedules. They must also have the ability to work with other staff, the City Attorney’s Office, and the Public Records Manager on all issues regarding the retention of departmental records.

**Public Records Manager**

The Public Records Manager provides advice and assistance to departments in the development, revision, and use of records retention schedules; coordinates and documents the process by which proposed retention schedules are developed/revised and submitted to the City Attorney’s Office for approval; disseminates approved retention schedules to staff using the City Intranet and Internet site and other methods as may be appropriate; and conducts regular and periodic reviews of approved schedules and of this policy to determine their continuing accuracy, completeness, and relevance. The Public Records Manager also is responsible for development of and revisions to the Citywide General Records Retention Schedule.
City Attorney’s Office

The City Attorney’s Office provides advice on legal questions during the development of retention schedules, and reviews and approves proposed records retention schedules to ensure they meet legal recordkeeping requirements.

PROCEDURES

1. **Retention Schedule Development**
   
   a. Each department shall establish and maintain a records retention schedule that shall comprise all departmental records identified by records series. This retention schedule shall include a description of each series, a proposed retention period for each series, and the basis for each retention period. The basis for retention must be a citation of a statute, regulation, ordinance, or departmental or City policy or practice.

   b. During the development of retention schedules, departments are encouraged to contact the Public Records Manager for general advice and the City Attorney’s Office for more specific advice regarding legal recordkeeping requirements.

   c. Upon their completion, the department will forward the proposed retention schedule to the Public Records Manager. The Public Records Manager will conduct a review to ensure that the schedules meet applicable records retention requirements, complete any formatting needed, and then send the proposed schedules with comments and recommendations to the City Attorney’s Office for final review and approval.

   d. Upon approval, the City Attorney’s Office will transmit the schedule with a written communication indicating that approval to the Public Records Manager.

   e. The Public Records Manager will arrange for the approved schedule to be posted on the City’s web site. The schedule must be posted on-line for 30 days prior to going into effect.

   f. Following the 30 day posting period, the Public Records Manager will notify the department that the schedule is ready for implementation.

   g. A copy of the City’s most current records retention schedule will remain posted on the City web site on a continual basis.

2. **Portability of Retention Schedules**

   When functions are transferred between departments, the records retention schedule applicable to those functions will remain in effect unless and until revised.

3. **Revision of Records Retention Schedules**

   a. Retention schedules must be reviewed periodically by department records administrators for accuracy, completeness, and relevance, and then revised and augmented as needed.
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b. The City Public Records Manager shall also periodically review all retention schedules to identify needed revisions and additions, and then communicate those findings to the applicable departments.

c. When records are consistently retained for valid operational purposes longer than required by approved records retention schedules, the Department to which the associated records schedule applies must revise that schedule to reflect that longer retention.

d. Procedures for revising schedules are the same as those for developing them.

4. **Retention Schedule Use – Records Destruction**

a. Prior to destroying obsolete records according to approved retention schedules, Departments must consult with the City Attorney’s Office to determine that there is no pending litigation that might require those records as evidence or to comply with discovery requests. Departments must also determine that there are no pending audits or active public records requests that may require the records.

b. Destruction of records containing confidential information must be destroyed by a secure means such as shredding.

c. All records destruction must be documented, indicating the records series and date range that was destroyed. This documentation must be retained as indicated in the Citywide General records retention schedule.

5. **Litigation Holds**

a. In the case of possible, pending, or ongoing litigation, the City Attorney’s Office may suspend the regular destruction of records even if those records are otherwise eligible for destruction according to approved retention schedules.

b. Following the conclusion of litigation or a determination that the records are no longer required, the City Attorney’s Office will inform affected departments of the release of any litigation hold. At that time, records destruction shall proceed in the normal course of business according to approved retention schedules.

6. **Citywide General Records Retention Schedule**

Departments must retain and dispose of records included in the Citywide general retention schedule according to that schedule except when it conflicts with an approved retention schedule that is specific to a department. In that case, that department must adhere to its particular schedule.

Approved:

/s/ Ed Shikada

Assistant City Manager

November 15, 2010

Date