

CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
One Frank Ogawa Plaza (City Hall)
Special Commission Meeting
Tuesday, December 3, 2013
Hearing Room 2
6:30 p.m.



Commissioners: Lloyd Farnham (Chair), Aspen Baker (Vice-Chair), Roberta Johnson, Benjamin Kimberley, Monique Rivera, Eddie Tejada, and Jenna Whitman

Commission Staff: Whitney Barazoto, Executive Director
City Attorney Staff: Alix Rosenthal, Counsel to the City

SPECIAL MEETING AGENDA
Note: Meeting will be in Hearing Room 2

1. **Roll Call and Determination of Quorum.**
2. **Staff and Commission Announcements.**
3. **Open Forum.**

CONSENT ITEMS¹

4. **Approval of Commission Draft Minutes.**
 - a. October 3, 2013, Special Meeting Minutes ([Attachment 1 - Minutes](#))

ACTION ITEMS

5. **Records Management Policy.** LaTonda Simmons, City Clerk, and Deidre Scott, Records Manager in the City Clerk's Office, will present the proposed Records Management program to the Commission for review. ([Attachment 2a – Letter from City Clerk](#); [Attachment 2b – December 15, 2009 Agenda Report](#); [Attachment 2c – Draft Comprehensive Records and Information Management Program Report and Timeline](#); [Attachment 2d – Secretary of State Guidelines²](#)).
6. **General Complaint Procedures.** The Commission will review and consider approval of amended General Complaint Procedures proposed by the Complaint Procedures subcommittee. ([Attachment 3a – Memorandum](#); [Attachment 3b – Proposed Draft General Complaint Procedures](#); [Attachment 3c – Process Diagram of Proposed Procedures](#); [Attachment 3d – Existing General Complaint Procedures](#); [Attachment 3e – PEC Resolution](#))
7. **Creation of an Oakland Ethics Ordinance.** Commission staff and the City Attorney's office are collaborating to draft legislation that would enact a local ethics ordinance for the

¹ Consent items will be voted on all at once, unless a Commissioner requests removal of an item from consent prior to the vote.

² The Secretary of State guidelines are included for optional reference. It is a large document that is provided as additional information about what the Secretary of State requires in local records management programs.

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6:30 p.m.



City of Oakland. Currently, no local ethics ordinance exists, and the Commission has no legal authority to impose penalties for violations of ethics laws. The Commission articulated its desire for a local ethics ordinance in its letter to City Council on September 3, 2013. The Commission will consider creating a subcommittee to review the draft legislation and inviting public comment as to suggestions for an ethics ordinance. ([Attachment 4a – Memorandum](#); [Attachment 4b – Copy of PEC Letter to City Council](#))

8. **Subcommittee Reports.** The Commission currently has three *ad hoc* subcommittees: 1) Access to Public Records, 2) Complaint Procedures, and 3) Commissioner Recruitment. The Commission may make announcements regarding any of these subcommittees. Note: two of the Commission’s subcommittees have agenda items listed on this agenda, and, for any items approved by the Commission, it may result in completion of the project and the end of the subcommittee.
9. **Complaint/Enforcement Program.** An updated list of pending cases is included. Commissioners may discuss the complaint process in general and may discuss any of the complaints listed in the attached spreadsheet. ([Attachment 5 – Complaint Log](#))

The meeting will adjourn upon the completion of the Commission’s business.

A member of the public may speak on any item appearing on the agenda. All speakers will be allotted a maximum of three minutes unless the Chairperson allocates additional time.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in the meetings of the Public Ethics Commission or its Committees, please contact the Office of the City Clerk (510) 238-3611. Notification two full business days prior to the meeting will enable the City of Oakland to make reasonable arrangements to ensure accessibility. Also, in compliance with Oakland’s policy for people with environmental illness or multiple chemical sensitivities, please refrain from wearing strongly scented products to meetings.

Should you have questions or concerns regarding this agenda, or wish to review any agenda-related materials, please contact the Public Ethics Commission at (510) 238-3593 or visit our webpage at www.oaklandnet.com/pec.

11/27/13

Approved for Distribution

Date

CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
One Frank Ogawa Plaza (City Hall)
Commission Meeting
Thursday, October 3, 2013
Sgt. Mark Dunakin, Hearing Room 1
6:30 p.m.

DRAFT



Commissioners: Lloyd Farnham (Chair), Aspen Baker (Vice-Chair), Roberta Johnson, Benjamin Kimberley, Monique Rivera, Eddie Tejada, Jenna Whitman

Commission Staff: Whitney Barazoto, Executive Director
City Attorney Staff: Alix Rosenthal, Legal Counsel

MEETING MINUTES

1. Roll Call and Determination of Quorum.

The meeting was called to order at 6:33 p.m.

Members present: Commissioners Baker, Johnson, Kimberley, Rivera, Tejada, and Whitman
Commissioner Farnham arrived during Open Forum.

Staff present: Whitney Barazoto and Lauren Angius. Alix Rosenthal arrived during Open Forum.

2. Staff and Commission Announcements.

Executive Director Whitney Barazoto introduced the Commission's new legal counsel, Alix Rosenthal.

Ms. Barazoto also announced the addition of two new interns, Joanna Saeteurn and Jelani Killings, to the Commission.

The City launched the new public records request system created by the Code for America fellows on October 1, 2013 in a press conference.

Commissioner Whitman announced that Councilmember Kalb's Ethics and Good Government Working Group held a public meeting on September 30, 2013 to solicit public input.

Commissioner Tejada announced that OpenOakland will be hosting its second annual City Camp on Saturday, November 9, 2013 at City Hall and encouraged everyone to attend.

3. Open Forum.

There were two speakers: Katherine Gavzy and Norm Budman.



CONSENT ITEMS

4. Approval of Commission Draft Minutes.

The Commission approved 7-0 the September 3, 2013, Regular Meeting Minutes.

GUEST PRESENTATIONS

5. Records Management Policy.

Deidre Scott, Records Manager in the City Clerk's Office, provided the Commission with an update on the status of the Records Management Program.

6. Citywide Public Records Request System, Code for America Online Application Launch.

Sheila Dugan presented and demonstrated the new Code for America application, RecordTrac, designed for submitting, completing, and managing requests for City records.

DISCUSSION ITEMS

7. Subcommittee Reports.

Access to Public Records Subcommittee Chair Baker announced that the subcommittee would be meeting within the next month to discuss and approve the report generated from the subcommittee's Transparency Project work.

Complaint Procedures Subcommittee Chair Farnham announced that the subcommittee would be meeting directly following the Commission's meeting that evening to discuss the draft complaint procedures.

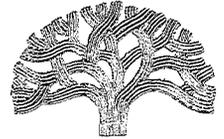
Ms. Barazoto announced that Commissioner recruitment was underway and encouraged all interested Oakland residents to apply.

8. Complaint/Enforcement Program.

The Commission took the complaint log under advisement.

The meeting adjourned at 8:20 p.m.

CITY OF OAKLAND



CITY HALL • ONE FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

Office of the City Clerk
La Tonda Simmons
City Clerk and Clerk of the Council

(510) 238-3611
FAX (510) 238-6699
TDD (510) 839-6451

December 2, 2013

To the Honorable Members of the Public Ethics Commission:

RE: Draft report for the Comprehensive City-wide Records and Information Management Program
and amendments to the Oakland Sunshine Ordinance

Dear Members of the Public Ethics Commission:

This letter serves to transmit the proposal and preliminary schedule to implement a Comprehensive Records and Information Management Program for the City of Oakland.

The report reviews the proposed program structure put forward in Ordinance 11370 C.M.S. and resolution 82908 C.M.S., infrastructure and resources necessary to successfully implement and activate the program; and the time line to achieve full life cycle activities, assuming consistent dedicated support. The attached report also provides for an in-depth review on the City's capacity to manage electronic records management and additional steps to develop the Historic Records program.

Forthcoming feedback from the Offices of City Administrator, City Attorney, City Auditor, and Department of Information Technology may be provided as supplements prior to the meeting and likely throughout the 60 day review.

We appreciate your patience in providing the necessary time, analysis, and planning to prepare the report, program, and schedule and we look forward to the discussions.

Sincerely,

LaTonda Simmons, City Clerk
Deidre Scott, Citywide Records Manager

CC: City Administrators Office, Office of the City Attorney, City Auditor,
Department of Information Technology

Attachments:

- 1) December 15, 2009 Agenda Report
- 2) Draft Comprehensive Records & Information Management Program Report
 - A) Secretary of State Guidelines to Local Records Management Programs

FILED
OFFICE OF THE CITY CLERK
OAKLAND

CITY OF OAKLAND

AGENDA REPORT

2009 DEC -3 PM 5:07

To: Office of the City Administrator
Attn: Dan Lindheim

From: Office of the City Attorney
Office of the City Auditor
Office of the City Clerk
Public Ethics Commission

Date: December 15, 2009

Re: **Ordinance Amending Chapter 2.20 Of The Oakland Municipal Code (aka "The Oakland Sunshine Ordinance") Incorporating Amended Provisions Of The "City-wide Records Management Ordinance" (Ordinance No. 11370) Into The Sunshine Ordinance To Codify And Establish A City-wide Records Management Program**

SUMMARY

In September, 1991, the Oakland City Council unanimously adopted an "Ordinance Establishing A City-Wide Records Management Program" (Ordinance No. 11370). *Attachment I.* Ordinance 11370 established the authority and process for the development of a City-wide records management program. The proposed amendments herein would incorporate revised provisions of Ordinance 11370 into the Oakland Sunshine Ordinance (O.M.C. Chapter 2.20) and specifically revise Ordinance 11370 to provide:

- 1) updated definitions of essential terms, including definitions of "City record" and "Records Management Committee."
See proposed §2.20.410.
- 2) updated required elements of the City's records management program. *See proposed §2.20.420(A).*
- 3) a process for City Council approval of any proposed records management program. *See proposed §2.20.420(D).*
- 4) specific duties and responsibilities for the Office of the City Clerk, agency and department heads and the Public Ethics Commission. *See proposed §2.20.430.*

Item: _____
Finance and Management
December 15, 2009

- 5) penalties for the deliberate destruction of City records and a requirement that City records be transferred to the Office of the City Clerk upon the termination of office. *See proposed §2.20.440.*

A "redline" version of all proposed amendments is attached as *Attachment 2*.

A "clean" version of all proposed amendments is attached as *Attachment 3*.

FISCAL IMPACT

Responsibility for the development and administration of the Citywide records management program is vested with the Office of the City Clerk. The Clerk's Office is currently recruiting for the position of Citywide Records Manager. The proposed amendments are compatible with ongoing responsibilities for City agencies to maintain records management practices consistent with a Citywide records management program. Once implemented, the Citywide records management program should realize greater efficiencies and economies in the retention and disposition of City records.

BACKGROUND

The existing Citywide Records Management Ordinance (Ordinance 11370) was adopted in 1991 and authorizes the creation of a Citywide program for the management of City records. Apparently, this ordinance was never codified or indexed into published versions of the Oakland Municipal Code. The existing ordinance contains a series of definitions, many of which are vague or obsolete, and a description of administrative duties and responsibilities. The proposed amendments would codify and incorporate Ordinance 11370 into the Oakland Sunshine Ordinance as a key component of Oakland's public record policies.

In October, 2008, the Finance and Management Committee considered a proposal almost identical to the one presented here. The Committee directed staff to implement a City-wide records management program "administratively" and chose not to recommend adoption of the proposed amendments. The City Clerk's Office requested each City agency and department to appoint a representative to the Records Management Committee (RMC). Initially, only 9 City agencies and departments appointed representatives for the 13 roster positions. The City Clerk's Office developed an implementation schedule for developing a Records Management Plan and presented it to the RMC early in November, 2008. Between October, 2008, and June, 2009, the RMC met 13 times. Committee participation ranged from only 5 to 10 people per meeting due to changes in departmental staffing and interest. In the absence of full departmental participation and cooperation, it was impossible to begin developing any of the proposed plan elements. This and other factors ultimately led to the resignation of the Records Manager in July, 2009.

The proponents of the proposed amendments contend that 1) existing Ordinance 11370 needs to be revised, codified, and indexed into the Oakland Municipal Code as a matter of legal administration, and 2) the effort to successfully develop and implement a City-wide records management program will continue to be frustrated without legislative adoption of the specific terms, timelines, duties and procedures set forth in the proposed amendments.

Item: _____
Finance and Management
December 15, 2009

KEY ISSUES AND IMPACTS

A. Proposal To Add, Delete And Amend Essential Terms [§2.20.410]

The existing ordinance amends the definitions of a number of terms that the proponents believe to be outdated, unnecessary or in need of revision. The following describes the significant proposed revisions:

1) "**City record**" is currently defined as "all books, papers, letters, documents, publications, maps, plans, photographs, sound recordings, automated systems, or other documentary materials, regardless of format or characteristics, made or received and retained by any office, person, or agent of the City of Oakland in connection with the transaction of city business. This definition does not include preliminary drafts or personal notes made, received or retained unless otherwise required by the situation or as directed by the City Manager or the City Council."

The proposed amendments would streamline and revise the existing definition to provide that a "**City record**" shall mean "all recorded information, regardless of media format or physical characteristics, that are produced, received, owned or used" by the City in connection with its affairs or legal obligations. The proposed revision would retain the existing exception for "preliminary drafts or personal notes" except as specified in the records management program. The proponents believe that this exception is necessary to preserve and protect the deliberative process in government decision making.

2) "**Records Management Committee**" would consist of a representative from each City agency, and from the Offices of the City Clerk, City Administrator, City Attorney, City Auditor, Information Technology and City Council. Current membership on the Records Management Committee is specified by Administrative Instruction No. 114 and consists of representatives from each City agency and from the Offices of the City Clerk, City Administrator, and the Executive Director of the Public Ethics Commission.

B. Proposal To Revise The Process By Which The Records Management Program Is Approved [§2.20.420]

Current law requires the records management committee as constituted under AI 114 to review the proposed records management program and make recommendations to the City Administrator before seeking City Council approval. The proposed amendments would require the City Clerk, within six months after the enactment of the proposed amendments, to submit to the Records Management Committee a records management program for review. The records management program would consist of seven mandatory elements: a retention schedule, vital and historical records management, electronic records management, forms management, files management, records conversion and a disposition schedule for City records. After review by the Records Management Committee, the City Clerk shall provide a draft to the Public Ethics Commission for the purpose of conducting a public hearing on the proposed records management program within 60 days. After receiving public comments and recommendations

from the Public Ethics Commission, the City Clerk shall submit the proposed records management program to the City Council for consideration. The approved records management program and disposition schedule shall constitute the authority to destroy City records pursuant to state and local law.

C. Duties And Responsibilities [§2.20.430]

The proposed amendments would clarify and specify the duties of the City Clerk, Agency and department heads, and the Public Ethics Commission with respect to the development and implementation of the records management program. Among the City Clerk's proposed duties would be the development and implementation of a records management program for all City elected officials. The Public Ethics Commission would be authorized to investigate and report to the Records Management Committee or other appropriate City offices on specific allegations of non-compliance with the records management program.

D. Custody Of City Records [2.20.440]

The proposed amendments would assert the City's proprietary right to City records and provide for misdemeanor penalties for the knowing, willful or grossly negligent destruction of City records except as specified in the records management program. All City records would be transferred to the Office of the City Clerk upon 1) the termination of an office's function or an agent's contractual obligations; or 2) an elected official's termination of office unless the records are to remain in the office of their successors.

E. Destruction Of Records [§2.20.450]

The proposed amendments would provide that before a City record could be destroyed, the appropriate Agency or department head, City Auditor and City Clerk have certified that the City records are no longer needed to fulfill any "administrative, fiscal, legal or historical value to the City." The City Attorney must also consent in writing pursuant to state law.

SUSTAINABLE OPPORTUNITIES

The proponents contend that the successful development and implementation of a Citywide records management program will help avoid costly, time-consuming and inefficient records management practices and reduce the City's potential exposure to legal liabilities.

DISABILITY AND SENIOR CITIZEN ACCESS

Not applicable.

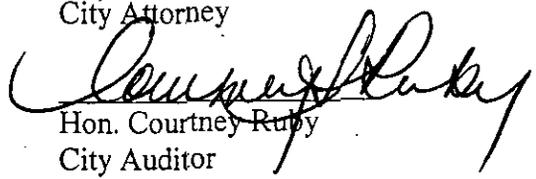
RECOMMENDATION AND ACTION REQUESTED

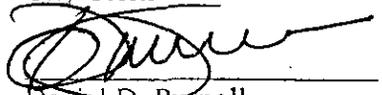
The Offices of the City Attorney, City Auditor, City Clerk, and Public Ethics Commission recommend that the City Council adopt the proposed amendments to the Oakland Sunshine Ordinance.

Respectfully submitted,



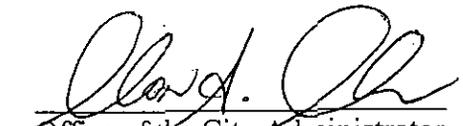
Hon. John Russo
City Attorney

LaTonda Simmons
City Clerk

Hon. Courtney Ruby
City Auditor

Daniel D. Purnell
Executive Director
Public Ethics Commission

FORWARDED TO THE FINANCE AND MANAGEMENT COMMITTEE



Office of the City Administrator


CITY ATTORNEY

2009 DEC -3 PM 5:54

ORDINANCE NO. 11370 C. M. S.

ORDINANCE ESTABLISHING A CITY-WIDE RECORDS MANAGEMENT PROGRAM

WHEREAS, the City of Oakland recognizes the public need to establish a records management program that is centralized, professional, cost effective, preserves vital and historical City records, and guarantees its citizens access to public records of the City; and

WHEREAS, the City Charter identifies the City Clerk as the custodian of official City records; and

WHEREAS, during the course of City business records are received or created by City agencies; and

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION I. Purpose

The purpose of this ordinance is to provide for efficient and economical management policies for the collection, creation, utilization, maintenance, retention, storage, preservation, and disposal of City records through the establishment of a City-wide records management program.

SECTION II. Definitions

A. City record - all books, papers, letters, documents, publications, maps, plans, photographs, sound recordings, automated systems, or other documentary materials, regardless of format or characteristics, made or received and retained by any office, person, or agent of the City of Oakland in connection with the transaction of city business. This definition does not include preliminary drafts or personal notes made, received, or retained unless otherwise required by the situation or as directed by the City Manager or the City Council.

B. Record series - a group or system of City records which may be treated as a unit for the purpose of description, management, retention, inventory, and disposition.

C. Staff person - anyone employed by City of Oakland whether in a full-time status, a part-time status, a temporary status, or in a voluntary status.

D. Agent - individual or organization authorized by the City

ATTACHMENT 1

of Oakland to conduct business with the City, perform duties for the City, or provide services for the City.

E. Retention schedule - a timetable that specifies the period of time a record series must be kept in active and inactive status before final disposition. The relationship between a retention schedule and a records series is that a retention schedule is a list by records series delineating what to do with each chronological generation of records series.

F. Vital record - information required to be maintained by federal, state, or local laws, rules, or regulations or which the City Manager or the City Council deem to be essential to the continued operation of the City, to the protection of the rights and privileges of the City, its staff, its citizens, or which if lost could impose extreme financial hardship upon the City.

G. Microimaging - a technical art of capturing, producing and reproducing records in miniature/electronic form which is used as a tool to achieve records management goals.

H. Forms management - the application of system analysis methods to the design and use of forms as well as control of the publication, distribution, and classification of forms.

I. Files management - the logical and physical arrangement of records series that facilitates efficient storage, retrieval, retention, and disposition of City records.

J. Records Manager - the staff person delegated the responsibility for developing, implementing, and maintaining the City records management program.

K. City Agency - any department, office, committee, board, or commission created under the authority of the City Charter.

L. Inactive records - records whose reference rate drops to less than two times per file drawer per month.

M. Disposition - the actions taken in the management of records after the retention period has elapsed.

N. Department Management - the senior managers or their designees in each major administrative subdivision of the City.

SECTION III. POLICIES

A. The records management program shall consist of the following elements:

- retention scheduling;
- vital records management;
- microimaging;
- forms management; and,

-files management.

B. That the City Records Management Committee established under Administrative Instruction 114, May 1988, shall review all proposed records management policies and make recommendations to the City Manager for adoption as administrative instructions.

C. That the City Records Management Committee shall review all retention schedules and submit them to the City Manager for forwarding to the City Council for approval as a resolution.

D. That a City Records Manager shall be appointed by the City Clerk and Clerk of the Council and a Records Management Division established which shall be responsible for the management of the City-wide Records Management Program.

SECTION IV. Responsibilities of the Records Management Division

A. Establish and maintain a Records Center for the centralized storage, protection, and retrieval of inactive and historical records.

B. Completion of a records series inventory of all City records.

C. Completion and maintenance of a Records Retention Schedule for each record keeping system maintained by the City.

D. Provide assistance to City departments in the replacement or improvement of record keeping management systems.

E. Establish, maintain, and operate a City microimaging or optical scanning program in accordance with the minimum quality control standards of the American National Standards Institute or the Association of Information and Image Management.

F. Administer a centralized forms management program.

G. Keep historical City records in such a condition that shall permit them to be inspected, examined, or copied by City staff or the general public unless access is restricted by policy, ordinance, statute, or administrative instruction.

H. Provide staff support to the City Records Management Committee.

I. Identify and protect the City's vital records.

J. Train all department records coordinators in records management procedures.

SECTION V. Responsibilities of Department Management

A. Ensure compliance with established City records management procedures.

B. Assist the records management staff in the completion and maintenance of a records series inventory, a vital records master list, and a forms register.

C. Coordinate the maintenance, retention, and disposition of all City records in the department's custody in accordance with the instructions outlined in the department's retention schedule.

D. Each City department shall appoint a records coordinator who will act as department liaison with the Records Management Division to assist with the implementation of records management procedures for the department.

SECTION VI. Unless otherwise directed or specified by Department Management, records of any office or agent of the City shall, upon termination of the office's function or agent's contractual obligations, be transferred to the custody of the City Records Center.

IN COUNCIL, OAKLAND, CALIFORNIA, SEP 24 1991, 19 _____

PASSED BY THE FOLLOWING VOTE:

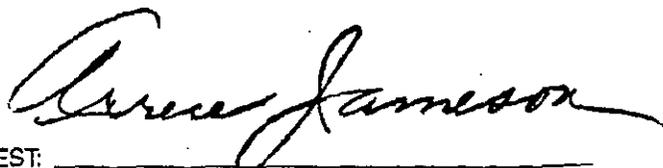
AYES— BAZILE, CANNON, GIBSON HASKELL, MILEY, MOORE, OGAWA, RILES, SPEES, and PRESIDENT HARRIS ; - 9

NOES— NONE

ABSENT— NONE

ABSTENTION— NONE

ATTEST: _____



ARRECE JAMESON

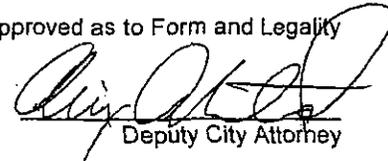
City Clerk and Clerk of the Council
of the City of Oakland, California

ATTACHMENT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2009 DEC -3 PM 5:08

Approved as to Form and Legality


Deputy City Attorney

OAKLAND CITY COUNCIL

Ordinance No. _____ C.M.S.

ORDINANCE AMENDING CHAPTER 2.20 OF THE OAKLAND MUNICIPAL CODE (AKA "THE OAKLAND SUNSHINE ORDINANCE") INCORPORATING AMENDED PROVISIONS OF THE "CITY-WIDE RECORDS MANAGEMENT ORDINANCE" (ORDINANCE NO. 11370) INTO THE SUNSHINE ORDINANCE TO CODIFY AND ESTABLISH A CITY-WIDE RECORDS MANAGEMENT PROGRAM

WHEREAS, the City of Oakland recognizes the public need to establish a records management program that is centralized, professional, cost effective, preserves vital and historical City records, and guarantees its citizens access to public records of the City; and

WHEREAS, the City Charter identifies the City Clerk as the custodian of official City records; and

WHEREAS, during the course of City business records are received or created by City agencies; and

WHEREAS, the Oakland City Council adopted Ordinance No. 11370 in 1991, which ordinance establishes the "City-wide Records Management Program"; and

WHEREAS, Ordinance 11370 was never codified or indexed into published versions of the Oakland Municipal Code; and

WHEREAS, the implementation of a City-wide records management program will assist in reducing administrative costs, improving efficiency and productivity, ensuring regulatory and legal compliance, minimizing litigation risks, safeguarding vital information, and supporting better decision-making; and

WHEREAS, the Oakland Sunshine Ordinance was adopted in 1997 "to assure that the people of the City of Oakland can be fully informed and thereby retain control over the instruments of local government in their City;" and

WHEREAS, incorporation of Ordinance No. 11370 into the Oakland Sunshine Ordinance will assure that the City's records management policies will be fully implemented, transparent and available to the people of the City of Oakland; now, therefore,

ATTACHMENT 2

THE COUNCIL OF THE CITY OF OAKLAND DOES HEREBY ORDAIN AS FOLLOWS:

1. The City Council finds and determines the foregoing recitals to be true and correct and hereby adopts and incorporates them into this Ordinance.

2. Ordinance 11370 is hereby incorporated into the Oakland Sunshine Ordinance (O.M.C. Chapter 2.20) and amended to add, delete, or modify sections as set forth below (section numbers and titles are indicated in **bold type**; additions are indicated by underscoring and deletions are indicated by ~~strike-through type~~; portions of the regulations not cited or not shown in underscoring or strike-through type are not changed.

SECTION I. ARTICLE V: CITY-WIDE RECORDS MANAGEMENT

SECTION 2.20.400 Purpose

The purpose of this ~~ordinance~~Article is to provide for efficient and economical management policies for the collection, creation, utilization, maintenance, retention, storage, preservation, retrieval and disposal of City records through the establishment of a City-wide records management program.

SECTION II. ~~Definitions~~ 2.20.410 Definitions

Whenever in this Article the following words or phrases are used, they shall mean:

~~City record— all books, papers, letters, documents, publications, maps, plans, photographs, sound recordings, automated systems, or other documentary materials;~~
(A) "City record" shall mean all recorded information, regardless of media format or physical characteristics, made or received and retained that are produced, received, owned or used by any office, official, employee, person or agent of the City of Oakland in connection with City affairs or the City's legal obligations. the transaction of city business. This definition does not include preliminary drafts or personal notes made, received or retained unless otherwise required by the situation or as directed by the City Manager or the City Council, except as specified in the records management program.

(B) "Record series" shall mean file units or documents arranged in accordance with a filing system or maintained as a unit because they (1) relate to a particular subject or function, (2) result from the same City business activity, or (3) have a particular form or some other relationship arising out of Record series—a group or system of City records which may be treated as a unit for the purpose of their creation, receipt or use. The purpose of a record series is to facilitate the description, management, retention, inventory, disposition, retrieval and disposition of City records.

~~Staff person— anyone employed by City of Oakland whether in a full-time status, or part-time status, a temporary status, or in a voluntary status.~~

~~Agent— individual or organization authorized by the City of Oakland to conduct business with the City, perform duties for the City, or provide services for the City.~~

~~(C) Retention schedule— a timetable that specifies "Retention schedule" shall mean a document governing the period of time a City record within each record series must be kept in active and inactive status before final disposition. The relationship between a retention schedule and a records series is that a retention schedule is a list by records series delineating what to do with each chronological generation of records series.~~

~~(D) Vital record— information "Vital record" shall mean a City record required to be maintained by federal, state, or local laws, rules, or regulations or which the City Manager/Administrator or the City Council deem to be essential to the continued operation of the City, to the protection of the rights and privileges of the City, its staff/employees, its citizens, or which if lost could impose extreme financial hardship upon the City.~~

~~(E) Microimaging— a technical art of capturing, producing and "Electronic Records Management" shall mean the management and methods for capturing, storing, retrieving, producing or reproducing records in a miniature/electronic form which is used as a tool to achieve records management goals/electronic form.~~

~~(F) Forms management— "Forms management" shall mean the application of system analysis methods to the design and use of forms as well as control of the publication, distribution, and classification of forms.~~

~~(G) Files management— "Files management" shall mean the logical and physical arrangement of records series that facilitates efficient indexing, storage, retrieval, retention, and disposition of City records.~~

~~(H) Records Manager— "Records Manager" shall mean the staff person delegated the responsibility for developing, implementing, and maintaining the City records management program.~~

~~(I) "City Agency" shall mean those agencies of the City as set forth in Chapter 2.29 of the Oakland Municipal Code. City Agency— any department, office, committee, board, or commission created under the authority of the City Charter.~~

~~Inactive records— records whose reference rate drops to less than two times per file drawer per month.~~

(J) Disposition— "Disposition" shall mean the actions taken in the management of records after the retention period has elapsed.

Department management— the senior managers or their designees in each major administrative subdivision of the City.

(K) "Records Management Committee" shall mean a committee consisting of a representative from each City agency, the Office of the City Clerk who shall serve as committee chairperson, Office of the City Administrator, Office of the City Attorney, Office of the City Auditor, Office of Information Technology and a representative of the City Council.

(L) "Historical Records" shall mean records with enduring value because they reflect significant historical events, document the history and development of an agency, or provide valuable research data.

(M) "Electronic Recordskeeping" shall mean the use of records management principles and practices for records maintained electronically.

(N) "Records Conversion" shall mean the practice of changing the form of a record into another form for the purpose of business process improvement, business continuity, historical preservation, format obsolescence, or media degradation. Records conversion includes documenting the change in record format to provide a legal foundation for the conversion process.

SECTION III. POLICIES 2.20.420 Policies And Requirements

(A) The City's records management program shall consist of the following elements: (1) an adopted retention scheduling; (2) vital and historical records management; (3) electronic records management; (4) forms management; and (5) files management; (6) records conversion; and (7) disposition of City records.

(B) No later than six (6) months after the effective date of this ordinance, the Office of the City Clerk shall submit a records management program to the Records Management Committee for review. The Records Management Committee shall review that the City Records Management Committee has established under Administrative Instruction 114, May 1988, shall review all proposed records management policies program and make recommendations to the City Manager for adoption as administrative instructions. Office of the City Clerk.

That the City Records Management Committee shall review all retention schedules and submit them to the City Manager for forwarding to the City Council for approval as a resolution.

~~That a City Records Manager shall be appointed by the City Clerk and Clerk of the Council and a Records management Division established which shall be responsible for the management of the City-wide Records Management Program.~~

(C) After the Records Management Committee has reviewed and made recommendations to the Office of the City Clerk, the Office of the City Clerk shall submit the proposed records management program to the Public Ethics Commission for the purpose of obtaining public comment, analysis and recommendations. The Public Ethics Commission shall agendize a public hearing and transmit the public comments, any analysis and recommendations pertaining to the proposed records management program to the Office of the City Clerk within 60 days of receipt.

(D) Upon completion of the requirements in subsections (A), (B) and (C) above, the proposed records management program shall be submitted by the Office of the City Clerk to the City Council for approval by resolution. The records management program shall only be modified or amended pursuant to the process set forth in this Section. The adopted resolution and accompanying disposition schedule shall constitute authority for the destruction of City records pursuant to Government Code Section 34090 after the required retention periods have lapsed and the provisions of Section 2.20.450 have been met.

~~SECTION IV. RESPONSIBILITIES OF THE RECORDS MANAGEMENT DIVISION~~
Section 2.20.430 Duties And Responsibilities

(A) It shall be the duty and responsibility of the City Clerk to:

(1) Appoint a City Records Manager and establish a Records Management Division within the Office of the City Clerk which shall be responsible for:

(a) Establish and maintain a Records Center for the centralized storage, protection, and retrieval for the inactive and historical records, developing and maintaining a records management program that is in compliance with federal, state and City regulatory and business requirements;

~~Completion of a records series inventory of all city records.~~

~~Completion and maintenance of a Records Retention Schedule for each record-keeping system maintained by the City.~~

~~Provide assistance to City departments in the replacement or improvement of record keeping management systems.~~

(b) assisting City agencies to comply with the records management program;

~~(c) Establish, maintain, and operate a City microimaging or optical establishing a City-wide electronic records management program in accordance with the minimum nationally recognized quality control standards; standards of the American National Standards Institute or the Association of Information and Image Management.~~

~~(d) Administer establishing and administering a centralized forms management program.~~

~~(e) Keep maintaining and preserving vital and historical City records in such a condition that shall permit them to be inspected, examined, or copied by City staff or the general public unless access is restricted by policy, ordinance, statute, or administrative instruction or regulated by law;~~

~~(f) Provide providing staff support to the City Records Management Committee.~~

~~Identify and protect the City's vital records.~~

~~(g) Train training all department records coordinators in records management procedures.~~

~~(h) developing and implementing a records management program for the offices of all elected officials;~~

~~(i) developing and administering a retention schedule;~~

~~(i) establishing and administering a files management program; and,~~

~~(k) establishing criteria for records conversion.~~

~~(2) Develop, within the records management program, specific policies and procedures for the management and disposition of:~~

~~(a) publications, promotional materials from vendors and other similar materials that are publicly available and that are not specifically incorporated into a City record ("junk mail");~~

~~(b) duplicates of City records in which the original or facsimile of the original is retained pursuant to this Article; and~~

~~(c) unsolicited bulk email ("spam").~~

~~SECTION V. RESPONSIBILITIES OF DEPARTMENT MANAGEMENT~~

ATTACHMENT 2

~~Ensure compliance with established City records management procedures.~~

~~Assist the records management staff in the completion and maintenance of a records series inventory, a vital records master list, and a forms register.~~

(B) It shall be the duty and responsibility of each agency and department head to:

(1) Coordinate the maintenance, retention, and disposition of all City records in accordance with the instructions outlined in the department's retention schedule records management program;

(2) Each City department shall appoint a records coordinator who will act as agency or department liaison with the Records Management Division to assist City Records Manager and assist the agency, department or office with the implementation of the records management procedures for the department program under the direction of the City Records Manager; and,

(3) provide the necessary staff and resources to ensure the timely submission of the records management program to the Records Management Committee as specified in Section 2.20.420(B).

(C) It shall be the duty and responsibility of the Public Ethics Commission to:

(1) Conduct public hearings and transmit any testimony, findings, analyses or recommendations to the Office of the City Clerk pursuant to Section 2.20.420(C);

(2) Investigate and report to the Records Management Committee, Office of the City Clerk, Office of the City Administrator or other City agency or department as appropriate, specific allegations of non-compliance with the records management program; and

(3) Investigate allegations of criminal conduct pursuant to Section 2.20.440(A) and, subject to the Commission's discretion, refer such allegations to an appropriate law enforcement agency.

SECTION VI. Section 2.20.440 Interest In And Custody Of City Records; Misdemeanor Penalties

(A) All City Records are the property of the City of Oakland and shall be maintained consistent with the provisions of the records management program. Any person who knowingly or willfully or through gross negligence destroys or causes the destruction of a City Record during the retention period specified in the records management program is guilty of a misdemeanor.

(B) Unless otherwise directed or specified by the City Administrator, the City records of any office or agent of the City shall, upon termination of the office's function or agent's contractual obligations, be transferred to the custody Office of the City Records Center Clerk.

(C) Elected officials of the City of Oakland shall transfer to the Office of the City Clerk all City records within their custody, control, or possession and that will not remain in the office of their successors (1) no later than the last day of their final term of office, or (2) within 30 days after their removal or recall from office, or their resignation or abandonment of office.

Section 2.20.450 Destruction Of Records

(A) Prior to the destruction of a City Record as specified by the records management program:

(1) The appropriate agency or department head, City Auditor and City Clerk shall certify in writing that the City Record is no longer required to fulfill any administrative, fiscal, legal or historical value to the City; and

(2) The City Attorney shall consent in writing to its destruction pursuant to Government Code Section 34090.

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2009 DEC -3 PM 5:08

Approved as to Form and Legality


City Attorney

AN ORDINANCE AMENDING CHAPTER 2.20 OF THE OAKLAND MUNICIPAL CODE (aka "THE OAKLAND SUNSHINE ORDINANCE") INCORPORATING AMENDED PROVISIONS OF THE "CITY-WIDE RECORDS MANAGEMENT ORDINANCE" (ORDINANCE NO. 11370) INTO THE SUNSHINE ORDINANCE TO CODIFY AND ESTABLISH A CITY-WIDE RECORDS MANAGEMENT PROGRAM

NOTICE AND DIGEST

The proposed amendments to Chapter 2.20 of the Oakland Municipal Code would, if adopted: 1) incorporate revised provisions of the Citywide Records Management Ordinance (Ordinance No. 11370) into the Oakland Sunshine Ordinance; 2) delete, add and revise definitions of essential terms including, but not limited to, the definition of "City Record" and membership on the Records Management Committee; 3) add new mandatory elements to the Citywide records management program; 5) enumerate specific duties and responsibilities of the Office of the City Clerk, agency and department heads, and the Public Ethics Commission; and 6) establish misdemeanor penalties for the deliberate or grossly negligent destruction of City records not in accordance with the Citywide records management program.

ATTACHMENT:

ARTICLE V: CITY-WIDE RECORDS MANAGEMENT

SECTION 2.20.400 Purpose

The purpose of this Article is to provide for efficient and economical management policies for the collection, creation, utilization, maintenance, retention, storage, preservation, retrieval and disposal of City records through the establishment of a City-wide records management program.

SECTION 2.20.410 Definitions

Whenever in this Article the following words or phrases are used, they shall mean:

(A) "City Record" shall mean all recorded information, regardless of media format or physical characteristics, that are produced, received, owned or used by any office, official, employee or agent of the City of Oakland in connection with City affairs or the City's legal obligations. This definition does not include preliminary drafts or personal notes except as specified in the records management program.

(B) "Record Series" shall mean file units or documents arranged in accordance with a filing system or maintained as a unit because they (1) relate to a particular subject or function, (2) result from the same City business activity, or (3) have a particular form or some other relationship arising out of their creation, receipt or use. The purpose of a record series is to facilitate the description, management, retention, inventory, retrieval and disposition of City records.

(C) "Retention Schedule" shall mean a document governing the period of time a City record within each record series must be kept in active and inactive status before final disposition. The relationship between a retention schedule and a records series is that a retention schedule is a list by records series delineating what to do with each chronological generation of records series.

(D) "Vital Record" shall mean a City record required to be maintained by federal, state, or local laws, rules, or regulations or which the City Administrator or the City Council deem to be essential to the continued operation of the City, to the protection of the rights and privileges of the City, its employees, its citizens, or which if lost could impose extreme hardship upon the City.

(E) "Electronic Records Management" shall mean the management and methods for capturing, storing, retrieving, producing or reproducing records in electronic form.

(F) "Forms Management" shall mean the application of system analysis methods to the design and use of forms as well as control of the publication, distribution, and classification of forms.

(G) "Files Management" shall mean the logical and physical arrangement of records series that facilitates efficient indexing, storage, retrieval, retention, and disposition of City records.

(H) "Records Manager" shall mean the staff person delegated the responsibility for developing, implementing, and maintaining the City records management program.

(I) "City Agency" shall mean those agencies of the City as set forth in Chapter 2.29 of the Oakland Municipal Code.

(J) "Disposition" shall mean the actions taken in the management of records after the retention period has elapsed.

(K) "Records Management Committee" shall mean a committee consisting of a representative from each City agency, the Office of the City Clerk who shall serve as the committee chairperson, Office of the City Administrator, Office of the City Attorney, Office of the City Auditor, Office of Information Technology, and a representative of the City Council.

(L) "Historical Records" shall mean records with enduring value because they reflect significant historical events, document the history and development of an agency, or provide valuable research data.

(M) "Electronic Recordskeeping" shall mean the use of records management principles and practices for records maintained electronically.

(N) "Records Conversion" shall mean the practice of changing the form of a record into another form for the purpose of business process improvement, business continuity, historical preservation, format obsolescence, or media degradation. Records conversion includes documenting the change in record format to provide a legal foundation for the conversion process.

SECTION 2.20.420 Policies And Requirements

(A) The City's records management program shall consist of the following elements: (1) an adopted retention schedule, (2) vital and historical records management; (3) electronic records management; (4) forms management; (5) files management; (6) records conversion; and (7) disposition of City records.

(B) No later than six (6) months after the effective date of this ordinance, the Office of the City Clerk shall submit a records management program to the Records Management Committee for review. The Records Management Committee shall review the proposed records management program and make recommendations to the Office of the City Clerk.

(C) After the Records Management Committee has reviewed and made recommendations to the Office of the City Clerk, the Office of the City Clerk shall submit the proposed records management program to the Public Ethics Commission for the purpose of obtaining public comment, analysis and recommendations. The Public Ethics Commission shall agendize a public hearing and transmit the public comments, any analysis and recommendations pertaining to the proposed records management program to the Office of the City Clerk within 60 days of receipt.

(D) Upon completion of the requirements in subsections (A), (B) and (C) above, the proposed records management program shall be submitted by the Office of the City Clerk to the City Council for approval by resolution. The records management program shall only be modified or amended pursuant to the process set forth in this Section. The adopted resolution and accompanying disposition schedule shall constitute authority for the destruction of City records pursuant to Government Code Section 34090 after the required retention periods have lapsed and the provisions of Section 2.20.450 have been met.

Section 2.20.430 Duties And Responsibilities

(A) It shall be the duty and responsibility of the City Clerk to:

(1) Appoint a City Records Manager and establish a Records Management Division within the Office of the City Clerk which shall be responsible for:

(a) developing and maintaining a records management program that is in compliance with federal, state and City regulatory and business requirements;

(b) assisting City agencies to comply with the records management program;

(c) establishing a City-wide electronic records management program in accordance with nationally recognized quality control standards;

(d) establishing and administering a centralized forms management program;

(e) maintaining and preserving vital and historical City records in such a condition that shall permit them to be inspected, examined, or copied by City staff or the general public unless access is restricted or regulated by law;

(f) providing staff support to the Records Management Committee;

(g) training all department records coordinators in records management procedures; and

(h) developing and implementing a records management program for the offices of all elected officials;

(i) developing and administering a retention schedule;

(j) establishing and administering a files management program;
and,

(k) establishing criteria for records conversion.

(2) Develop, within the records management program, specific policies and procedures for the management and disposition of:

(a) publications, promotional materials from vendors and other similar materials that are publicly available and that are not specifically incorporated into a City record ("junk mail");

(b) duplicates of City records in which the original or facsimile of the original is retained pursuant to this Article; and

(c) unsolicited bulk email ("spam").

(B) It shall be the duty and responsibility of each agency and department head to:

(1) coordinate the maintenance, retention and disposition of all City records in accordance with the records management program;

(2) appoint a records coordinator who will act as agency or department liaison with the City Records Manager and assist the agency, department or office with the implementation of the records management program under the direction of the City Records Manager; and

(3) provide the necessary staff and resources to ensure the timely submission of the records management program to the Records Management Committee as specified in Section 2.20.420(B).

(C) It shall be the duty and responsibility of the Public Ethics Commission to:

(1) Conduct public hearings and transmit any testimony, findings, analyses or recommendations to the Office of the City Clerk pursuant to Section 2.20.420(C);

(2) Investigate and report to the Records Management Committee, Office of the City Clerk, Office of the City Administrator or other City agency or

department as appropriate, specific allegations of non-compliance with the records management program; and

(3) Investigate allegations of criminal conduct pursuant to Section 2.20.440(A) and, subject to the Commission's discretion, refer such allegations to an appropriate law enforcement agency.

Section 2.20.440 Interest In And Custody Of City Records

(A) All City Records are the property of the City of Oakland and shall be maintained consistent with the records management program. Any person who knowingly or willfully or through gross negligence destroys or causes the destruction of a City record during the retention period specified in the records management program is guilty of a misdemeanor.

(B) Unless otherwise directed or specified by the City Administrator, the City records of any office or agent of the City shall, upon termination of the office's function or agent's contractual obligations, be transferred to the custody of the Office of the City Clerk.

(C) Elected officials of the City of Oakland shall transfer to the Office of the City Clerk all City records within their custody, control, or possession and that will not remain in the office of their successors (1) no later than the last day of their final term of office, or (2) within 30 days after their removal or recall from office, or their resignation or abandonment of office.

Section 2.20.450 Destruction Of Records

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(1) The appropriate agency or department head, City Auditor and City Clerk shall certify in writing that the City Record is no longer required to fulfill any administrative, fiscal, legal or historical value to the City; and

(2) The City Attorney shall consent in writing to its destruction pursuant to Government Code Section 34090.



AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: LaTonda Simmons

SUBJECT: Recommendations for A
Comprehensive City-Wide Records
And Information Management Program

DATE: September 28, 2013

City Administrator
Approval

Date

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

Discussion And Possible Action On Recommendations For A Centralized Comprehensive City-Wide Records And Information Management Program For The City of Oakland And A Proposed Implementation Timeline To Achieve Full Program Activity

EXECUTIVE SUMMARY

At the July 20, 2010 City Council meeting resolution 82908 C.M.S. was adopted directing staff to develop a Comprehensive City-Wide Records Management Program to accompany proposed Records Management policy recommendations. After extensive effort, the Office of the City Clerk has established general program framework for a centralized Comprehensive Records and Information Management Program (“Program”). Prior to program approval, resolution 82908 C.M.S., requires the Public Ethics Commission to conduct a 60 day public review and refer the program to the City Council for approval. This report outlines a local program structure in accordance with the Secretary of State’s Guide for Local Records Management Programs; discusses continuing efforts to address management of electronic records, records conversion and establishment of a Historic Records Program. Additionally, a scalable implementation plan has been prepared to phase in all components of the program to activate true records management activities citywide.

OUTCOME

The proposed Program will establish clear policy and standards for citywide tracking and management of records information according to best practices for Records and Information Management (RIM). The Program will also provide for effective management, improved organizational credibility, validation of business decisions, reduced legal expenses, and public accountability. The program will update and enhance existing elements of records management in the City, improve how the City responds to public records requests, and include all required practices for management of City records.

Item: _____
Rules & Legislation Committee
November X, 2013

BACKGROUND/LEGISLATIVE HISTORY

In September 1991, the Oakland City Council adopted an ordinance "Establishing a City-Wide Records Management Program", Ordinance No. 11370 C.M.S. As the City of Oakland recovered from unprecedented structural damages caused by the 1989 Loma Prieta earthquake, City officials recognized how denied access to City offices and information impacted City operations. Upon restoration of the offices and staffing, program implementation commenced in September 2002 with execution of a contract for the implementation of a Records Retention Program. The offsite storage contract was amended in February of 2003, with completion of a records inventory and delivery of a retention schedule for paper records. Additional deliverables were also defined. In 2004, contractor services were discontinued and program implementation was suspended. In 2006, the Office of the City Clerk resumed planning for a records management program. Ordinance 11370 C.M.S. provided for development of eight (8) specific elements for the establishment of a Records Management Program, however no administrative infrastructure existed to engage work and no funding was earmarked to advance program activity. In 2007, Program IP63 – "City-Wide Records Management Program" was established to reflect records management as a priority. In 2008, the Citywide Records Manager classification was restored in the Office of the City Clerk.

With administrative infrastructure in place in December 2009, the Offices of the City Attorney, City Auditor, City Clerk, Mayor, and Public Ethic Commission introduced amendments to Chapter 2.20 of the Oakland Sunshine Ordinance and Ordinance 11370 C.M.S. (Attachment A) to solidify citywide policy on records management. Adoption was deferred until the City-wide Records Manager position was filled. In July 2010, resolution 82908 C.M.S. was adopted directing staff to develop a Comprehensive City-Wide Records Management Program to accompany the revisions to the Sunshine Ordinance. A working group convened meetings soon thereafter, but those meetings provided little traction for program development. At this point the Office of the City Clerk began to assess department records practices to measure activities against best practices to form recommendations for the program.

ANALYSIS

Setting the foundation for a comprehensive city-wide records program requires an extensive collaborative effort. As a result the Office of the City Clerk continues to engage many City departments and offices to perform the following:

- Informal surveys of each Agency as it relates to onsite active and inactive records management ;
- Tour City properties to locate, identify, assess conditions and storage environment of onsite records (At city restructurings and typically upon departmental notice of records issues);
- General assessment of companies offering a wide range of records management services;

- A review of various software systems to manage all records inventory regardless of records location or medium;
- In depth review of the current offsite storage facility resulting in reconciliation of unassigned records to establish ownership for every box;
- Work with Agencies and departments to assess practices and provide guidance to increase knowledge of Records management;
- Meet with city staff and DIT to initiate identification of specific record types requiring additional tracking, preservation, and/or conversion;
- Meet with DIT and staff in the Office of the City Attorney to assess electronic records needs, technical capacity and discuss solutions for email archiving
- Partner with Building Services to locate, establish ownership, package, and transfer abandoned records found in vacated City offices into the master inventory;
- Serve on the Continuity Of Operations (COOP) Steering Committee to develop Vital Records initiatives
- Serve on Public Records steering committee with Code for America to assist with development of systems, guidelines, policy and procedures
- Draft RFP for offsite records management vendor selection

The Office of the City Clerk determined there were many inconsistencies across departments and a lack of knowledge of full records management activities.

Key observations include:

- 1) No documentation noting the creation of new records
- 2) No schedule for the transfer of inactive files to onsite or offsite storage locations
- 3) Storage of records onsite within conditions not suitable for the preservation of records
- 4) Storage of records onsite without controls for access to file locations
- 5) Storage of records onsite within boxes and improper containers lacking proper identification
- 6) Electronic systems implemented, administered, and managed separately from DIT
- 7) No systems, procedures, or technical document for the conversion of records
- 8) No procedures for the change of controls for records requested for audit or litigation
- 9) Inconsistent use of offsite records storage location

The above records management practices highlight incomplete cycles for the processing of records and information, creating liability in the identification, preservation, tracking, and disposition of City records.

PROGRAM

The program proposes framework to deliver a regulated full scope records management program. The program addresses the eight elements set forth in Ordinance 11370 C.M.S. and Resolution 82908 C.M.S.; (1) definition of a City Record (2) update to the City's Retention Schedule (3) establishment of a Vital and Historical Records programs (4) proposals to address the

management of Electronic Records; (5 and 6) Forms Management; and File Management [referred to as a File Plan]; (7) Records conversion, where applicable; and (8) processes for disposition of records.

1) Definition of a Record

Definition of a record was proposed to be amended in accordance with the recommendations of the December 2009 report. The amendments to Sunshine in section, 2.20.410 are as follows:

1) "City record" is currently defined as "all books, papers, letters, documents, publications, maps, plans, photographs, sound recordings, automated systems, or other documentary materials, regardless of format or characteristics, made or received and retained by any office, person, or agent of the City of Oakland in connection with the transaction of city business. This definition does not include preliminary drafts or personal notes made, received or retained unless otherwise required by the situation or as directed by the City Manager or the City Council."

The proposed amendments would streamline and revise the existing definition to provide that a "City record" shall mean "all recorded information, regardless of media format of physical characteristics, that are produced, received, owned or used" by the City in connection with its affairs or legal obligations. The proposed revision would retain the existing exception for "preliminary drafts or personal notes" except as specified in the records management program. The proponents believe that this exception is necessary to preserve and protect the deliberative process in government decision making.

***NOTE:** The Public Ethics Commission differs slightly in its proposed definition of "City record". The Commission recommends that the existing and proposed exception for "preliminary drafts or personal notes" be deleted so that such material shall constitute a "City record" subject to the retention and disposition policies provided in the records management program. This difference in approach may ultimately become moot depending on whether and how the records management program provides for the handling of such material.*

The above definition lies within the proposed amendments to the Sunshine Ordinance issued by the Public Ethics Commission. The above recommendations would require substantial expansion of the City's records inventory to include documents potentially under the legal provisions of deliberative process, creating two results 1) fiscal impact to retain preliminary drafts and personal notes and 2) potential conflicts of law in the retention of those documents. Under current law, deliberative process provides for exemptions of "preliminary drafts or personal notes" prior to delivery of a final document. If this amendment passes, the Office of the City Clerk would require a legal opinion on the methodology to apply the collection and scheduling of "preliminary drafts or personal notes" within the retention schedule for any areas that may conflict with law.

2) Retention Schedule – Update of Current Retention Schedule

In February 2003, the City of Oakland adopted a retention schedule for paper records. The retention schedule assigns specific periods of retention to records based on the fiscal,

administrative, and legal needs of the organization. Records values are assigned in range from temporary to permanent. Currently, the City's retention schedule is outdated and does not comply with current state/federal requirements. The Secretary of State recommends updating retention schedules at least every 5 years. Additionally, all local retention schedules are now required to include electronic records appropriately identified within the series. The Office of the City Clerk proposes engaging a Citywide Inventory for the identification of records, incorporation of the newly identified records within the City's retention schedule for adoption by Council, annual department reviews of records series, and amendments upon restructure of City departments and offices or maximum every 2 years.

3) A - Establishment of a Vital Records Program

The Continuity of Operations (COOP) Steering Committee facilitates development of emergency services planning to ensure the City's ability to respond to all disasters and resume operations. The Records Manager has been assigned to the COOP Steering Committee to emphasize the need for Vital Records Collection to be aligned with COOP planning and serve as lead for citywide collection of Vital Records. Vital Records collections will occur twice a year to include and update documents that will allow all departments to resume operations in the event disasters occur. These records will be a limited series and will be housed in dual locations, at the offsite storage facility and the City's Emergency Operations Center offices.

B - Establishment of a Historic Records Program

Oakland was established in 1850 upon declaration of its trustees and subsequently received charter approval by the State of California as the "Town of Oakland" in 1852. The City of Oakland has a bounty of historic information. To establish a historic repository, significant work must occur to engage City departments, the Oakland Museum, and other organizations to build the repository. The Clerk's office would require the assistance of a qualified historian to complete this endeavor as well as coordination with the Oakland Museum, Oakland Library, and City departments, to develop an action plan. The Office the City Clerk recommends development of an RFP to solicit proposals to engage services of qualified historians to perform this task.

4) Management of Electronic Records

The City must incorporate all electronic decision documents within relevant series into the updated retention schedule. Identification of electronic records will occur as part of the city wide inventory. In addition to identification of electronic records, the Clerk's office continues to verify existing mechanisms to ensure proper preservation of electronic records.

The City of Oakland currently has innumerable electronic systems that provide operations and delivery of services. According to Clerk's observations, the management of information technology has been decentralized from the Department of Information Technology (DIT), resulting in different methodologies for systems oversight and retention capacity for electronic records. The Office of the City Clerk met with City Administrator, the Department of

Information Technology (DIT), the Director of the Public Ethics Commission to address the complexity of this issue and the many steps necessary to gain controls of electronic records. Independently, the City Administrator's office in collaboration with DIT recognized the limited capacity of city systems, and has engaged the development of a master plan for upgrades to technical systems citywide. The DIT project is large scale and requires significant capital investment to upgrade systems to achieve effective management of electronic records. This segment of the records management program will be presented by the Department of Information Technology and will address plans underway to assess, implement new technology, and provide for management of electronic records. This task directly affects item 7 – Records Conversion.

5) Forms Management

The recommendation to establish a Forms repository is within the original recommendations of the ordinance 11370 C.M.S in 1991. It is important to highlight dimensions in how current technology serves as means of service delivery and has increased the efficacy in delivery of information for both internal and external City services. The City deploys many forms for the processing of internal and external service delivery. Currently, the City of Oakland has established two virtual locations for the management of City forms – the “Intranet”, an internal network which provides internal service requests such as benefits changes, new hire forms, leave requests, requests for facilities services, payroll adjustments, etc.; and 2) the City's webpage which incorporates both electronic versions of paper forms and links to systems with virtual forms for service delivery. Both systems are established and frequently accessed. DIT manages the Intranet. The Citywide Communications Director, Karen Boyd led efforts to redesign the City's internet presence to emphasize true content delivery to citizens, by allowing departments to add service forms and system links to more effectively bridge citizens to information and services.

6) Files Management – Establishment of File Plans for all City Departments

All City departments will prepare file plans in tandem with the conduct of citywide records inventory. File plans will provide the location of department records by the number series of the adopted updated retention schedule; the scheduled transfer of records to onsite and offsite repositories, when applicable; and disposition of those records in accordance with the adopted retention schedule. Establishing file plans will serve to identify all onsite records storage location on city properties, ensure access, and transfer of the files during City restructuring, discovery, audit, to offsite storage facilities, where applicable, or to disposition (after determining administrative, fiscal, legal, historic or vital value).

7) Provide for Records conversion, where applicable

Records are converted to provide access to information deemed relevant for the continuation of operations and/or at request for access by the public. For business applications, the City's conversion of information is performed as part of implementation of new systems or modules, and/or data migrations to upgraded systems. For decertified data deemed irrelevant but still available, the Public Records Act requires the City to provide a methodology for data conversion

to provide information in an accessible format to a requestor. As a matter of process, DIT must assess their capacity to extract data and convert to readable formats or outsource the data extraction/conversion and bill the requestor for the exact costs of the technical work. In both cases, the Department of Information Technology, must determine how to deliver content housed in may technical systems to satisfy the needs of the requestor. DIT will address the capacity and plans to meet these requirements.

8) Provide for [Regular] Disposition of Records

Disposition of records involves the transition of record once inactive and expired. Disposition engages a final assessment of the value of records for litigation, audit, historic, and vital relevance. Upon determination that records possess the above values, the records are migrated to vital or historic repositories or reserved for the completion of audit and/or litigious processing. Records not deemed of value for the above purposes are destroyed. This is the back end of the records lifecycle.

Additional Program Components

A) Program Implementation & Regular Records Management Program Training

The above elements will become mandatory departmental responsibilities and will be enhanced with training support throughout the implementation and annually thereafter.

B) Mandatory Participation Citywide

To hinge successful program implementation and ongoing participation, the Office of the City Clerk has also drafted administrative policy mandating departmental participation. The drafted Administrative Instructions (AI) outlines departmental participation for every function of records management. The administrative policy requires fiscal commitment from departments, requires designated department staff, set conditions for approval of onsite records repositories, and mandates other conditions and participation in the program.

C) Necessity of Controls for Destruction of Records Stored Onsite

Many records remain stored onsite after becoming inactive and expired. Onsite records storage until expiration relieves departments of costs associated with transfer and storage of records in the offsite facility. While the approach is cost effective, in the present state of operations, it mitigates proper records management. There are no procedures to ensure records are properly identified when boxed and stored onsite, no records acknowledging the increase of department records inventory, and no controls to ensure proper destruction of onsite records. The office of the City Clerk is in the process of drafting procedures to prevent inconsistencies in onsite records practices and provide guidelines for proper destruction.

D) Establish Records Change of Control Procedures for Litigation and Audit Holds

Organization of City records will optimize our ability to more effectively locate and deliver information. This includes preparation of information to respond to internal requests for audit and litigation under the authorities of the Offices of the City Auditor and Attorney respectively. The Clerk's office will collaborate with the City Auditor, City Attorney, City Administrator, and DIT to build citywide procedures for records change of control to provide for more effective processing.

E) Additional policy development on use of Shredders and Shredding Services

To ensure proper controls for destruction, the City will need to examine the use of shredders and shredding services as a policy decision.

The proposed program will reconstitute records management practices citywide, providing for full scope and regulated activity to bring the City of Oakland in compliance with local and state laws and policy. Ongoing oversight will continue through the Office of the City Clerk's Records Division to ensure maintenance of records and information management practices are consistent with the following guidelines:

California Public Records Act (Government Code, Section 6250 et seq.) - Public agencies make all their records, with some exceptions, accessible to the public. Access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state;

Government Code, Section 12236 - Outlines State Archives which establish guidelines for local government records retention;

Government Code Section 34090 – 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.”;

City Charter Section 105 – Requires the transfer of any function from one department to another by this Charter or by any lawful ordinance or administrative authority, also authorizes the corresponding transfer of all records, property, and equipment necessary to such function;

ISO 15489 – Provides guidance on the tracking requirements and metadata used for records, their location and use;

NARA – Agency recordkeeping requirements including specifics of 36 CFR Chapter 12

Program Implementation

Implementation will require additional meetings, sub-tasks and assessments to update or establish required program elements. After activation of the below key elements, the living work

of the program will continue through mandatory periodic updates, with enforcement of program participation by the Office of the City Administrator.

Records Management Program Elements	Status	Work Period
Regular Conduct of Departmental Records Inventory (NEW)	To Be Done	January – September 2014
Adoption of a Retention Schedule (To Be Updated)	Established	October – December 2014
Forms Management (To Be Updated)*	Established	June 2014 – February 2015
Establishment of a Vital Record Program (NEW)	In Development	September 2014 – March 2015
Establishment of a Historic Records Program (NEW)	To Be Determined	December 2014 – July 2015
Management of Electronic Records (NEW)	In Development DIT	December 2014 – December 2015
Records Conversion (NEW)	In Development DIT	TBD
Regular Disposition Records (Mass Destruction)	To Be Done	2016 (2015)
Staff Procedures to Transfer Records to Offsite Facility	Established	March 2015
Contract for Offsite Storage Services (RFP)	Established	January/February 2014
Change of Control Procedures for Audit/Litigation Requests (NEW)	In Development	TBD
*Policy to Mandate Citywide Participation (NEW)	Drafted	TBD
*Implementation and Ongoing Staff Training on Records Management (NEW)	In Development	Each Phase and Annually
Additional Policy Development on Use of Shredders and Shredding Services (NEW)	To Be Determined	TBD

Program Implementation Phases I - III

The Office of the City Clerk will focus on the identified core tasks to engage implementation in 3 phases.

Phase I requires the formal assessment of records Citywide to identify what we have and assignment of values to the existing and new records categories. This will initiate the process to engage proper controls for management of city records.

- 1) Training to City Department (Through each phase, annually thereafter)
- 2) Conduct of a Citywide Inventory (Annual review thereafter)
- 3) Commence Development of File Plans
- 4) Update to the City’s Retention Schedule (No less than every 2 years)
- 5) Review RFP responses for Offsite Records Storage & Select Vendor
- 6) DIT Systems Analysis/Review Results of Systems Assessment

Phase II frames the structure for the reconstituted inventory of City records

- 1) Training to City Departments*
- 2) Finalize Departmental File Plans (Annual review /update)
- 3) Establish a database of City Forms (Contingent upon policy direction)
- 4) Establish Vital Records Program
- 5) Continue Review of Assessment of Electronic Records Management Systems (by DIT)
- 6) Destruction of expired records from updated Retention Schedule (Annual review)

Phase III formalizes the key repositories, completes establishment of key required program elements, and engages formal records Disposition as a completion of records lifecycle activity

- 1) Training to City Departments*
- 2) Establishment of Historic Records Program (Annual review and update)
- 3) Continue Review of Assessment of Electronic Records Management Systems (by DIT)
- 4) Establish Electronic Records Conversion procedures (TBD by DIT)
- 5) Formal Disposition of records from updated Retention Schedule (Annual review)

Commencing the Work

Departments will be required to complete the development of program infrastructure and perform regular updates to facilitate a “living” records management program. Absent departmental cooperation, participation will again detract momentum, and suspend program activities. In discussions with the Office of the City Administrator, citywide participation is recognized as paramount for successful implementation and ongoing program compliance. Complete implementation is anticipated to take 3 years at minimum with citywide participation and dedicated resources and much longer if funding cannot be appropriated and participation becomes erratic. The preliminary implementation attached to this report.

Concurrent with program implementation, many key sub-tasks must also occur. Each of the identified tasks will further Program implementation. These tasks are subdivided between categories of no or little fiscal impact.

Tasks with no fiscal impact:

1. Each Department, Office, and division appoint Records Coordinator and back up coordinator for all Units;
2. City Departments to coordinate with Records Manager a tour to assess ALL records storage locations on all City properties to review compliance and security;
3. Each Department, Office, and division review reports of offsite records lacking division ownership and assign ownership respectively;
4. Each Department, Office, and division provide Office of the City Clerk funding codes for storage and service costs for last two years as requested by the Controller to reconcile fiscal accountability for department records storage and services

Tasks with minimal fiscal impact:

1. Each Department, Office, and division review offsite storage report of recalled records to locate and return records to offsite storage facility;
2. Department of Information Technology perform a citywide systems inventory;
3. Each Department, Office, and division will utilize recordkeeping documentation to apply descriptive information to the boxes of offsite records lacking data; remaining unidentified records will require (with vendor assistance) city staff to review and index records at vendor location;
4. Each Department, Office, and division will utilize recordkeeping documentation to assign correct descriptive information to offsite records with duplicated data; remaining unverified records will require (with vendor assistance) city staff to review and index records at vendor location;
5. Records Division launch online annual training tool.

PUBLIC OUTREACH/INTEREST

Revision of the Records Management policy and establishment of a Records Management program is of great interest to the League of Women Voters, members of the Public Ethics Commission, media groups, and the general public. Access to city records is the right of the citizenry. The Program will establish procedures for effective records management citywide and ensure enforcement of program procedures at the highest authority in the City of Oakland, the Office of the City Administrator.

COORDINATION

Program implementation will require work with the offices of the City Administrator, City Attorney, City Auditor, City Departments, and Department of Information Technology.

COST SUMMARY/IMPLICATIONS

Records Management should be seen as a committed practice and organizational philosophy. With exception to electronic records, procurement of systems optimizes operations and the means to effectively manage records, but systems procurement alone should not be seen as a solution. Accordingly, program implementation will have an increased cost burden based on the speed and methodology of how staff will proceed. Ongoing program activities are limited in scope to costs associated with collection, maintenance, storage, disposition, and destruction.

The below costs are estimates to engage program implementation. The below estimates do not include costs for efforts within Department of Information Technology to achieve effective electronic records management, establish procedures for records conversion, or the work necessary to establish a Historic Records program. The Office of the City Clerk is exploring additional resources to increase capacity to effectively manage ongoing program activities.

AMOUNT OF RECOMMENDATION/COST OF PROJECT:

Records Management Program Elements	Cost
--	-------------

Regular Conduct of Departmental Records Inventory (NEW)	\$0
Adoption of Revised Retention Schedule	\$0
File Plans (Files Management) (NEW)	\$0
Forms Management *	\$ TBD
Establishment of a Vital Record Program (NEW)	\$0
Establishment of a Historic Records Program (NEW)	\$ TBD
Management of Electronic Records (NEW)	\$ TBD
Records Conversion (NEW)	\$ TBD
1 st Time Mass Disposition Records	\$50,000 1 st Time (\$10,000 ongoing)
Staff Procedures to Transfer Records to Offsite Facility	Established (TBD)
Contract for Offsite Facility (RFP)	\$85,000 Annually
Change of Control Procedures for Audit/Litigation Requests (NEW)	\$ 0
Policy to Require Citywide Participation (NEW)	\$ 0
*Ongoing Staff Training on Records Management (NEW)	\$ TBD
Policy Development on Use of Shredders and Shredding Services (NEW)	To Be Determined

1. **SOURCE OF FUNDING:** Current allocation IP63 – \$70,000 Mid-cycle Req: \$65,000

2. **FISCAL IMPACT:** Preliminary Estimate:

	(1 Time)	(Ongoing)
Destruction	\$50,000	\$10,000
Storage	\$85,000	\$85,000
Preliminary Totals	\$135,000	\$95,000

Tasks with undetermined minimal fiscal impact:

1. Each Agency, Department or Unit will review offsite storage report of recalled records provided by Records Division to locate and return records to offsite storage facility;
2. Each Agency, Department or Unit will utilize their individual recordkeeping documentation to identify descriptive information of offsite records. The remaining unidentifiable records will require (with vendor assistance) city staff to review and index records at vendor location;
3. Each Agency, Department or Unit will utilize their individual recordkeeping documentation to assign correct descriptive information of offsite records with duplicate data. The remaining unidentifiable records will require (with vendor assistance) city staff to review and index records at vendor location;
4. Records Division launch online training tool.

POLICY ALIGNMENT

The proposed policy focuses on the drafting of procedures for departments and mandatory participation to perform records management duties within each segment governing the records lifecycle. The prepared records program aligns records management activities with best practices and legal requirements for the management of records. which will reduce liability failure to produce records, perform required audits, and respond to litigation

SUSTAINABLE OPPORTUNITIES

Economic: The records program will reduce liability due to failure to produce records, perform required audits, and respond to litigation.

Environmental: *There are no environmental issues for this report.*

Social Equity: Efficiencies with records management promotes transparency and ensures access to information to build discourse on City policy and policy development for all stakeholders.

Respectfully submitted,

LaTonda Simmons
City Clerk, Office of the City Clerk

Prepared by: Deidre Scott/LaTonda Simmons
Title City-wide Records Manager/City Clerk

Attachments:

Attachment A – Secretary of State’s Guide to Local Records Management Programs

Attachment B – Program Implementation Schedule

Item: _____
Rules & Legislation Committee
x, 2014

City of Oakland – Office of the City Clerk
Comprehensive Citywide Records and Information Management Program
PRELIMINARY IMPLEMENTATION TIMELINE & AND SCHEDULE OF KEY TASKS

2013

- *Prework for Phase I - Drafting of Records Management Administrative Instruction*
- *Prework for Phase I - Drafting of Records Mgmt Comte Administrative Instruction*
- *Prework for Phase I - Assemble documents for Conduct of Citywide Inventory*
- *Prework for Phase II - Draft & Release Offsite Storage Facilities RFP*
- *Prework for all Phases - Draft Implementation Schedule*
- *Prework for all Phases - Request Department reps for Records Management Committee*
- *Prework for all Phases - Request Assignment of Department/Division Records Coordinators*

2014

- *Phase I - Staff Training On Records Implementation Phase I Tasks*
- *Phase I - Commence Conduct of Citywide Inventory*
- *Phase I - Commence Departmental Development of File Plans*
- *Phase I - Review of RFP responses/Select Vendor*
- *Phase I - Complete Update to the Retention Schedule*
- *Prework - Phase II - Follow up on the Assessment of City Systems (DIT) and ERM capacity*
- *Prework - Phase II - Commence preparation of program Instructions for Vital Program*
- *Prework - Phase II - Request Department Lists of Onsite Records Storage Locations*
- *Prework - Phase II - Conduct feasibility study of onsite records storage locations*

2015

- *Phase II - Staff Training On Records Implementation Phase II Tasks*
- *Phase II - Implement/Establish Database of City Forms (Contingent upon policy direction)**
- *Phase II - Continue Review of the Assessment of City Systems and ERM capacity (DIT)*
- *Phase II - Issue Program Guide for Vital Records Program/Commence Vital Records Collection*
- *Phase II - Review Destruction Eligibility List/ Complete Mass Destruction of Expired Records*
- *Prework - Phase III - Engage Collaborators, Draft & Release Historic Records Consultant RFP*
- *Prework - Phase III - Engage Departments on File Transfers to Onsite/Offsite Storage Facilities*
- *Prework - Phase III - Commence Drafting of Records Conversion Procedures*

2016

- *Phase III - Staff Training on Records Implementation Phase III Tasks*
- *Phase III - Establishment of Historic Records Program*
- *Phase III - Finalize Electronic Records Conversion Procedures*
- *Phase III - Continue Review of the Assessment of City Systems and ERM capacity (DIT)*
- *Phase III - Formal Disposition of City Records*
- *At this Phase, the Program begins the cyclical renewal of work as a living program achieving activation of all program elements -> commence new collection, review retention schedule, update schedule and file plans as necessary, review records transfers, engage disposition (including destruction)....*

2017

- **IT LIVES!!!!**

Timeline subject to change based on dedicated staff and resources.



SECRETARY OF STATE

LOCAL GOVERNMENT

RECORDS MANAGEMENT GUIDELINES

SECRETARY OF STATE DEBRA BOWEN

ARCHIVES DIVISION
RECORDS MANAGEMENT

(916) 653-3834

FEBRUARY 2006

**LOCAL GOVERNMENT
RECORDS MANAGEMENT GUIDELINES**

TABLE OF CONTENTS

CALIFORNIA GOVERNMENT RECORDS MANAGEMENT PROGRAM.....2-1000

BACKGROUND.....2-1010

AUTHORITY.....2-1020

DEFINITIONS.....2-1030

RECORDS MANAGEMENT.....2-2000

PRINCIPLES.....2-2010

INVENTORY.....2-2020

APPRAISAL AND SCHEDULING.....2-2030

RETENTION SCHEDULES.....2-2040

DISPOSITION OF RECORDS.....2-2050

SUMMARY.....2-2060

ACKNOWLEDGEMENT.....2-2070

ADMINISTRATIVE RECORDS – TYPICAL RETENTION PERIODS.....ATTCH A

RECORDS MANAGEMENT AND ARCHIVES RESOURCESATTCH B

CITY RECORDS RETENTION GUIDELINES.....ATTCH C

COUNTY RECORDS RETENTION GUIDELINES.....ATTCH D

LOCAL GOVERNMENT RECORDS MANAGEMENT

GUIDELINES

California Government Records Management Program

2-1000

Background

2-1010

In 1968 the Legislature passed the California Public Records Act (PRA) ([Government Code, Section 6250 et seq.](#)) which is modeled after the federal Freedom of Information Act and details what government information is, and is not, available to the public. In general, all records are open to the public except 28 specific exemption categories listed in PRA, Section 6254. The PRA applies to all records, in whatever form, maintained by either state or local public agencies.

In 1978 the Information Practices Act (IPA) ([California Civil Code, Section 1798 et seq.](#)) became effective to protect personal privacy rights for individuals. The IPA is modeled after the Federal Privacy Act of 1974 and supercedes portions of the PRA. It does not apply to local public agencies except under voluntary contractual agreements.

The State Records Management Act ([Government Code, Section 14740-14774](#)) requires the Director of the Department of General Services (DGS) to establish and administer the state's records management program. The program applies "... to the creation, utilization, maintenance, retention, preservation, and disposal of state records." DGS administers the program through the State Administrative Manual (SAM), Chapter 1600 and the California Acquisition Manual (CAM).

SAM and CAM require every state agency to establish Records Retention Schedules which, when approved, become the legal authority for the agency to dispose of official public records. Retention schedules are the key element in effective records management programs for both government and private industry. State agencies must revise and update their schedules every five years or whenever a change occurs that impacts the keeping or disposing of agency records. The Records Management Act, SAM and CAM do not apply to local public agencies.

Since, with the exception of the PRA, legislation and directives establishing the state Records Management Program **do not** apply to local government, county and/or city government agencies do not have a standardized program of accountability for their treatment of public records. Nor does local government have standard retention periods for various record categories other than certain record types identified in government codes that mandate specific local programs. To alleviate this situation the 1999 legislature added [Section 12236](#) to the Government Code, which states in Section 12236 (a) "The Secretary of State shall establish the Local Government Records

LOCAL GOVERNMENT – RECORDS MANAGEMENT GUIDELINES

Program to be administered by the State Archives to establish guidelines for local government retention and to provide archival support to local agencies in this state.”

These guidelines are an initial attempt to provide some standards and structure to the local government records management effort. Other attempts at standardization include the California City Clerks Association’s 1998 list of common local government records and recommended retention periods. The goal of the State Archives in compliance with GC 12236 is to consolidate information resources and provide local government with a single source for archival and records management support and guidance.

Authority

2-1020

- California Public Records Act (Government Code, Section 6250 et seq.)
- Government Code, Section 12236

Definitions

2-1030

- **Active Records** – As a measure of activity for records that are referred to at least once a month per cubic foot of records. 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 typically retained only for short time periods – less than five years. Examples include subject, chronological, budget, and policy files.
- **Archival Records** - Records with enduring value because they reflect significant historical events, document the history and development of an agency, or provide valuable research data.
- **Discovery** – The pretrial disclosure of pertinent facts or documents by one or both parties to a civil action or proceeding. Anything requested during discovery must be disclosed if it exists – even non-records and records that should have been destroyed earlier. Discovery effectively freezes selected holdings until released by opposing attorney or the court.
- **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](#).”

LOCAL GOVERNMENT – RECORDS MANAGEMENT GUIDELINES

- **Non-Records** - Material not usually included within the definition of records, such as unofficial copies of documents kept only for convenience or reference, working papers, appointment logs, stocks of publications and processed documents, and library or museum material intended solely for reference or exhibition. Also, documents such as rough notes, calculations or drafts assembled or created and used in the preparation or analysis of other documents. (See also **Discovery**)
- **Permanent Records** – Records that are required in perpetuity, usually identified by statute or other written guidance. Examples include original birth certificates, death certificates, Spanish land grants, etc.
- **Perpetual Records** – Records retained for an indefinite period of time and then stored or destroyed after some event takes place. Examples include office personnel files which are kept until a person leaves the office, policy files kept until the policy is changed, contract files kept until the contract terminates, 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** - Any 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.
- **Records** - All papers, maps, exhibits, magnetic or paper tapes, photographic films and prints, punched cards, and other documents produced, received, owned or used by an agency, regardless of physical form or characteristics.
- **Records Retention Schedule** - A list of all records produced or maintained by an agency and the actions taken with regards to those records. A retention schedule is an agency's legal authority to receive, create, retain, and dispose of official public records. It assists the agency by documenting which records require office or temporary storage, which records have historic or research value, and which records should be destroyed because they no longer have any administrative, fiscal, or legal value. In the event of litigation, courts accept a retention schedule as establishing an agency's "normal course of doing business".
- **Retention Period** – The length of time a record must be retained to fulfill its administrative, fiscal and/or legal function. Then a record should be disposed of as soon as possible in accordance with an approved Records Retention Schedule.

Records Management

2-2000

Principles

2-2010

According to Government Code, Section 14740, California's Records Management Program is designed to "...apply efficient and economical management methods to the creation, utilization, maintenance, retention, preservation, and disposal of state records". Effective Records Management ensures that records are kept **only** as long as they have some administrative, fiscal, or legal value.

When records no longer fulfill the value for which they were created, they should be destroyed unless they also have some historic or research significance. If that is the case the records should be preserved by an appropriate historical agency. Staff members should realize that an effective records management program is not only cost effective, it will also make their jobs easier. They should also know that records retained beyond their value "just in case" only extend the agency's legal liability in the event of adverse litigation.

These principles apply to all levels of government.

Inventory

2-2020

The first step in records management is a records inventory. Agencies need to know what records they have, where the records are kept, the volume, and how the records are used. This information is essential for developing a Records Retention Schedule to document the agencies normal course of doing business.

The Records Inventory Worksheet, state form STD 70, is available to assist agencies in gathering information needed in a records management program. Regardless of the form used, the following information should be obtained during any inventory of agency records:

- Record Series - A record series is a group of similar records arranged under a single filing system or kept together as a unit. They deal with a particular subject (budget, personnel, etc.), result from the same activity (arrest reports, property assessments, etc.), or have a special form (blueprints, maps, etc.). The title of each record series should be as accurate as possible, since future references to the records will be by the record series name. Avoid vague titles such as "Corporate Papers", "Official Documents", or "Vital Correspondence".
- Media – Determine the media for each record series such as paper, microfilm, etc. Also note if the same record exists in several medium.

LOCAL GOVERNMENT – RECORDS MANAGEMENT GUIDELINES

- Years covered – Determine the period of years covered by each record series. (Example: 1994-98).
- Activity Level - The amount of activity involving a record determines where the record should be stored. Active records need to be readily available and are generally stored in the office because they are accessed frequently. Inactive records that are still needed but only accessed occasionally should be warehoused in low cost storage.
- Volume – Note the volume of each record series by the cubic feet of space they occupy. This number is a spot count and should represent only those records on hand at the time of inventory. A typical file drawer or archive box contains approximately one cubic foot of actual records. Folders, separators, tab cards, etc. are not considered part of a record.

Appraisal and Scheduling

2-2030

After the inventory, sound records management requires a realistic appraisal of records in relation to their period of usefulness and their value to the agency that owns them.

The appraisal will:

- Establish reasonable retention periods.
- Identify records that can be destroyed immediately.
- Identify records that should be transferred to low cost storage.
- Identify vital and/or confidential records.
- Identify records with historic and/or research value.
- Determine the method of disposition.

Once records are inventoried, determine the immediate and future usefulness of the records. In general, records should be retained only as long as they serve the immediate administrative, legal and/or fiscal purposes for which they were created. When records no longer serve these purposes, they should be disposed of or preserved for archival purposes, whichever is appropriate.

Records with administrative value are created to help accomplish the functions for which an agency is responsible and have administrative value only as long as they assist the agency in performing current or future work. Their administrative use is exhausted when the transactions to which they relate are complete and from that point on they lose value rapidly.

Records with legal value contain evidence of legally enforceable rights or obligations of the agency. Examples are records that provide the basis for action, such as legal decisions and opinions; fiscal documents representing agreements, such as leases, titles and contracts; and records of action in particular cases, such as claim papers and legal dockets.

LOCAL GOVERNMENT – RECORDS MANAGEMENT GUIDELINES

Fiscal records pertain to the financial transactions of the agency, such as budgets, ledgers, allotments, payrolls and vouchers. After some records have served a basic administrative function, they may still have sufficient fiscal value to justify additional retention to protect the agency against court action and/or audits.

Some records will also have enduring value because they reflect significant historical events or document the history and development of an agency. Others contain accumulated data that can be useful for both scientific and genealogical research. At the local level historical societies and/or public libraries may be able to assess this potential value for the agency.

The final step in appraising records is determining their retention period. Keeping records, either in offices or storage areas, is very expensive and the actual or potential value of the records must be weighed against the cost. Most managers tend to keep records too long “just in case” and unwittingly extend the agency liability for as long as the records exist. Except for perpetual records, most administrative records should only be kept two or three years and certainly not more than five. Program records (unique and representative of the function of the office) are typically large files and kept for longer periods of time. Attachment A contains recommended retention periods for common administrative records maintained by several state agencies.

Questions to ask are how serious would it be if a particular record 5 or 10 years from now were unavailable? What are the chances of it being needed? Are the consequences serious enough to justify keeping a large volume of records for long periods of time at considerable cost? Is the information available anywhere else? What would it cost to reconstruct the record if necessary? Answering these questions will lead to a more realistic approach to the problem of determining how long records should be kept.

Establishing retention periods may also involve negotiation with the people who use the records. They should be encouraged to look realistically at their need for the records. Don't accept the answer that 'the records are used all the time and therefore must be kept permanently'. “Permanent” retention is very expensive, rarely necessary, and usually must be justified by a specific written requirement such as a statute, legal opinion, government code, etc. The State assumes “permanent” to mean 500 years! Will your records really have any value 500 years from now?

Once retention periods have been established for all records, a Records Retention Schedule can be developed. The schedule formalizes the retention and disposition of the agency's records and establishes the agency's “normal course of doing business”.

Retention Schedules**2-2040**

A properly prepared and approved Records Retention Schedule is an agency's legal authority to do whatever needs to be done with records and documents entrusted to the agency's care. It certifies the life, care, and disposition of all agency records. If subpoenaed records have been destroyed, agency schedules (AND EVIDENCE OF COMPLIANCE WITH THOSE SCHEDULES) will defend the agency's actions. However, to prove there was no adverse intent when records were destroyed, schedules must be specific and consistently used. Adverse intent (to keep records out of court) is both a civil and criminal offense.

The state uses two forms to create Records Retention Schedules: the Records Retention Schedule Approval Request, [STD Form 72 \(pdf\)](#); and the Records Retention Schedule, [STD Form 73 \(pdf\)](#). The Form 72 contains signature elements from the agency involved, the Records Manager, the approval authority, and an archival review. The Form 73 is the schedule itself and contains an agency description or mission statement plus the listing of all agency records. Both of these forms are for state agencies but could easily be adapted/modified for use by local government.

Use of these or similar forms help an agency ensure their schedule contains all the elements necessary to withstand legal scrutiny. The signatures of the program manager (record custodian) and agency Records Manager attest to the completeness and accuracy of the information on the schedule. The approval authority should be the government body having administrative authority over the agency. For local government this authority could be the County Board of Supervisors, County Administration, Mayor's Office, City Administrator or similar government functions. Archival review at the local level could be from a county or city historical society, historical museum, library, or similar organization.

In state government schedules are considered current for five years unless amended sooner due to a significant change in an agency's record keeping practices. A change of mission, added functions, new programs, etc. would all trigger an amendment to an existing schedule. Regardless of any amendments, a new schedule must be prepared and approved after five years to ensure the schedule accurately and completely reflects the agency's records holdings and disposition. Renewing schedules more frequently is always an option, and is required in some states. Local government agencies should adopt whatever cycle is most practical within their jurisdiction.

Physical location, complexity, and activity levels of records are some of the factors to consider when determining how many schedules are needed to support an agency's records management program. Small agencies housed in one facility with narrowly focused missions may only need one schedule for the entire agency. Larger, more complex agencies may need many schedules to efficiently and effectively document the varied records maintained by the agency. For example, County Health Services in a large populous county would probably require separate schedules for Children's Services, Mental Health, Health Promotion, Elder Care Services, etc. On the other

hand, a small county Health Services Agency might use a single schedule and list record series in groups under each different agency function.

Disposition of Records

2-2050

Once records have fulfilled their administrative, fiscal, or legal function they should be disposed of as soon as possible in accordance with their Records Retention Schedule. A properly completed schedule provides an agency with the legal authority to dispose of records entrusted to its care. Disposition may include sending appropriate records to an archival facility, recycling unneeded records, and/or destroying unneeded confidential records. Remember, in the event of litigation the court will want to know what the agency does in the normal course of doing business. Your Records Retention Schedule spells out the normal course of business for how your agency handles and disposes of its records.

In general, most agencies keep records well beyond the record's administrative, fiscal, or legal value "just in case" the records may be desired for future purposes. That is one of the worst reasons to retain records because excess records over-burden staff, slow response times to public requests, and extend the agency's legal liability. A court can not demand an agency produce documents that have been destroyed in accordance with accepted and documented (your retention schedule) industry practices.

Summary

2-2060

Records Management's primary concern is the efficient, effective and economical management of information. The guiding principle of Records Management is to insure that information is available when and where it is needed, in an organized and efficient manner, and in a well-maintained environment. Records Management is more than retention schedules and the disposition of records; records management also encompasses all the record-keeping requirements that allow an organization to establish and maintain control over information flow and administrative operations. Records Management seeks to control and manage records through the entirety of their life cycle, from their creation to their final disposition.

In today's litigious society Records Management is more important than ever but unfortunately is still overlooked and under-funded at all levels of government. In court an astute attorney can discredit an agency in the eyes of a judge or jury by attacking the way the agency handles its records. The fact that the records may refute or support a particular position is obscured by the attack on how the agency accounts for and handles those records. The agency's legal position in the litigation may be influenced by how well or how poorly they comply with accepted records management practices.

A sound records management program doesn't cost – it pays. It pays by improving customer service, increasing staff efficiency, allocating scarce resources, and providing

a legal foundation for how an agency conducts its daily mission. It helps identify and justify opportunities for new technology. Microfilm, optical disk, optical character recognition, workflow, e-mail, bar code, and other related technologies cannot be adequately evaluated and cost justified without a good records management program. Other benefits of effective records management include:

- Space Savings
- Reduced expenditures for new filing equipment
- Increased efficiency in information retrieval
- Compliance with legal, administrative, and fiscal retention requirements
- Identification and protection of vital records
- Control over creation of new records
- Identification of records with research value
- Identification of records with historical value

Acknowledgement

2-2070

The California State Archives would like to acknowledge the League of California Cities and the City Clerks Association of California for their major contribution to these guidelines. Attachment C represents several years of effort by the League and the Association to provide standard retention periods for record series common to most city jurisdictions. Attachment D – County Records Retention Guidelines has been permanently removed.

Please forward comments and/or corrections to these retention periods to the California State Archives.

For assistance in developing a Records Management Program or to comment on this web site please contact:

*Laren Metzger
Deputy State Archivist
Secretary of State
Archives Division
1020 O Street
Sacramento, CA 95814
(916) 653-3834, Fax (916) 653-7134
lmetzger@sos.ca.gov*

Administrative Records - Typical Retention Periods

Type of Record	Years	Remarks
<u>Correspondence</u>		
Chron Files	2	
General/Public	3	
Controlled	2	
Reports	3	
Subject Files	3	
Reproduction/Printing Requests	2	
<u>Financial</u>		
		>4/7 = 4 yrs for state funds/7 for federal funds<
Expense Reports	4/7	Or until audited, whichever is first
Budgets	4/7	Or until audited, whichever is first
Billing/Accounting Reports	4/7	Or until audited, whichever is first
Budget Change Proposals	4/7	Or until audited, whichever is first
Budget Change Concepts	4/7	Or until audited, whichever is first
Audits	4/7	
Invoices	4/7	Or until audited, whichever is first
Fees/Receipts	4/7	Or until audited, whichever is first
Checks/Ledgers/Registers	4/7	Or until audited, whichever is first
Cal Stars Reports	Active+1	Active until new budget approved*
Cost Recovery - Federal	Active+7	Active until claim paid then 7 or until audited, whichever is first*
Cost Recovery - State	Active+4	Active until claim paid then 4 or until audited, whichever is first*
Grants	Active+2	Active until end of grant year*
<u>Equipment/Supplies/Space</u>		
Inventory	Active	Active until revised*
Purchase Request/Order	Active+4/7	Active until items received(4/7 if subject to audit)*
Service Orders/Authorizations	Active	Active until service performed*
Vendor Information	Active	Active until revised*
Building Maintenance/Leases	Active	Active until lease terminates*
Inspection Reports/Moves/Space	Active	Active until revised/rescinded/superseded*
Equipment Maintenance	Active+2	Active until maintenance complete*
Hardware/Software Documentation	Active	Active until revised/rescinded/superseded*
Vehicle Files	2	
<u>Personnel</u>		
Duty Statements	Active	Active until revised*

Employee Records	Active+1	Active until employee leaves/terminates. PRA 6254, IPA 1798.40, Confidential Destruction. (CD)*
Attendance	Active+1	Active until employee leaves/terminates. PRA 6254, IPA 1798.40, CD.*
Travel	Active+1	Active until travel complete. PRA 6254, IPA 1798.40, CD.*
Training	3	PRA 6254, IPA 1798.40, CD.
Applications	2	PRA 6254, IPA 1798.40, GC 12946, CD.
Interview Documents	2	PRA 6254, IPA 1798.40, CD.
Affirmative Action	Active	Active until revised*
Merit Awards	3	PRA 6254, IPA 1798.40, CD.
Superior Accomplishments	3	PRA 6254, IPA 1798.40, CD.
Labor Relations	2	
Production/Assignment Logs	2	
Overtime Logs	2	PRA 6254, IPA 1798.40, CD.
Action Requests/Grievances	2	PRA 6254, IPA 1798.40, CD.
Toxic Exposure Reports	Active	Active until employee leaves/terminates. PRA 6254, IPA 1798.40, CD. Transfer Rpt with employee.*
<u>Policy/Procedure/Organization</u>		
Policies (All)	Active	Active until revised*
Procedures (All)	Active	Active until revised*
Compliance Requirements	Active	Active until revised*
Organization Charts	Active	Active until revised*
Mission Statements	Active	Active until revised*
Associations	Active	Active while membership is current*
Meetings/Minutes/Agendas	2	
Activity Reports	2	
Studies/Statistics	3	
Feasibility Studies	5	
Request for Proposals	3	
Delegation Orders	Active	Active until revised/superseded/Revoked*
Conferences/Committees	3	
Contracts	Active+4/7	Active until contract terminates/+4/7 if subject to audit*
Emergency Preparedness	Active	Active until revised*
Public Hearings	5	
Health/Safety	3	
Plans and Goals	Active	Active until revised/rescinded/superseded/Complete*
<u>Records Management</u>		
Records Retention Schedule	Active	Active until revised*
Records Transfer List (STD 71)	Active	Active until disposal of records*
Records Destruction Authorization	4	

Forms File	Active+1	Active until revised/rescinded/superseded*
Legislation/Regulations/Legal		
Bill Analysis	3	PRA 6254
Research Information	3	PRA 6254
Proposed Legislation/Regulations	4	PRA 6254
Legal Opinions	Active+1	Active until issues resolved*
Law Suits/Small Claims	Active+1	Active until litigation complete*
Enrolled Bill Report	4	PRA 6254
PRA/IPA Files	2	
Public Relations		
Clippings	2	
Press Releases	2	
Speeches	2	

* “Active” retention is for Perpetual Records that remain “active” until some event occurs. After the event occurs the records are disposed of or may require retention for an additional short period of time.

The “Remarks” section of a retention schedule also identifies records not subject to public disclosure because of code or statute, as well as any other unusual or significant characteristics about a record series. PRA refers to the California Public Records Act and IPA refers to the Information Practices Act. CD stands for Confidential Destruction.

Most administrative records are small in volume and the records retained for less than five years.

Program Records:

There are no typical retention periods for program records because they are unique to the individual office. They represent the reason the office exists and their retention is usually specified in some statute or regulation that established the office or program. A few program records may be identified for permanent retention however most will be retained for a specific number of years, or as perpetual records with an “Active” period, just like administrative records.

Most program records are large in volume and may be required much longer than administrative records. As with administrative records, program records should be retained only as long as they have some administrative, fiscal, or legal value. After that they should be disposed of in accordance with an approved Records Retention Schedule.

Records Management and Archives Resources

Many resources exist to assist you in your records management program. This list is not all-inclusive but will provide you with several contacts where you can ask questions and receive professional answers to many records management issues. All of these resources provide information free of charge and some also offer membership in the organization, which entitles you to additional benefits.

AIIM - Association for Information and Image Management, International.

AIIM is a global industry association connecting users and suppliers of enterprise content management (ECM) technologies - tools and methods that help capture, manage, store, preserve and deliver content in support of business processes. AIIM is a neutral and unbiased source of information. They produce educational events and conferences, provide up-to-the-minute industry information, and are ANSI/ISO-accredited for standards development. Local chapters provide networking and educational opportunities throughout the country.

World Headquarters
1100 Wayne Avenue, Suite 1100
Silver Spring, MD 20910
1-800-477-2446
<http://www.aiim.org/>

ARMA International – Association of Records Managers and Administrators.

The mission of ARMA International is to provide education, research, and networking opportunities to information professionals, to enable them to use their skills and experience to leverage the value of records, information, and knowledge as corporate assets and as contributors to organizational success. ARMA has a network of local chapters that provide educational opportunities for members and non-members alike.

ARMA International
4200 Somerset Dr., #215
Prairie Village, KS 66208
1-800-422-2762
<http://www.arma.org/>

NAGARA – National Association of Government Archives and Records Administrators.

NAGARA is an association dedicated to the improvement of federal, state, and local government records and information management. Their goal is to promote the availability of our documentary legacy by improving the quality of records and information management at all levels of government

NAGARA

48 Howard Street

Albany, NY 12207

1-518-463-8644

<http://www.nagara.org/>

NARA – National Archives and Records Administration

Major source for national archives and records management issues and policies.

Develops standard Record Retention Schedules for federal agencies.

National Archives and Records Administration

700 Pennsylvania Avenue, NW

Washington, D.C. 20408

1-800-234-8861

<http://www.archives.gov/index.html>

COSHRC

Council of State Historical Records Coordinators

Provides internet links to all State Archives and Records Management Offices.

<http://www.coshrc.org/arc/states.htm>

InterPARES

International Research on Permanent Authentic Records in Electronic Systems

Source for international research papers seeking to recommend standards in the electronic records industry.

<http://interpares.org/>

CA Secretary of State

Provides records management guidelines for local government agencies through the California State Archives web site.

California State Archives

1020 O Street

Sacramento, CA 95814

(916) 653-3834

lmetzer@sos.ca.gov

CA Department of General Services – California Records and Information Management (CalRIM)

CalRIM establishes guidelines for state agencies to manage their records programs,

including the management of electronic records and using technology such as imaging.

CalRIM provides training, Master Service Agreements to streamline the contracting process for records and imaging technologies and consultation, and other services to

help customers establish and maintain effective records programs. CalRIM also reviews and maintains all state agency records retention schedules.

Department of General Services
Procurement Division
California Records and Information Management Program
1500 5th Street, Suite 101
Sacramento, California 95814
(916) 324-4809
<http://www.osp.dgs.ca.gov/calrim/default.htm>

LOCAL GOVERNMENT RECORDS RETENTION GUIDELINES

**August 1999
City Clerks' Association of California
California State Archives 2002 Version**

LOCAL GOVERNMENT RECORDS RETENTION GUIDELINES

TABLE OF CONTENTS

DISCLAIMER.....	C-3
RECORD CLASSIFICATIONS.....	C-4
ITEM INDEX.....	C-5
LEGEND & CITATIONS.....	C-16
ADMINISTRATIVE RECORDS.....	C-17
DEVELOPMENT RECORDS.....	C-25
FINANCE RECORDS.....	C-29
PUBLIC SAFETY RECORDS.....	C-32
EMERGENCY MANAGEMENT.....	C-32
FIRE SAFETY.....	C-32
HAZARDOUS MATERIALS.....	C-33
LAW ENFORCEMENT.....	C-33
PUBLIC WORKS.....	C-42
TRANSPORTATION.....	C-47

Disclaimer

Local Government Retention Schedule Guidelines

The guidelines as enclosed have been endorsed by resolution of the General Assembly of the League of California Cities, and by the City Clerks Association of California. They represent extensive research as to the *minimum legal requirements* for the retention of local government records and do not reflect the administrative, operational, financial or historical needs of the jurisdiction. It is strongly recommended that cities consult with legal counsel when formulating their retention schedules so as to best meet their particular needs.

The committee's research was as complete as possible and reviewed by many legal officers but may not include every record series pertinent to local government. The guidelines are just that and are fluid, very much subject to additions and updates which will be coordinated through the office of the State Archivist under the Secretary of State.

Reference to retention periods, unless otherwise indicated, refers to the current year plus the years shown. For example, Cu + 2 refers to the Current year plus two, or 1998 plus years 1997 and 1996.

RECORDS RETENTION CLASSIFICATIONS – CITY GOVERNMENT**August 1999****ADMINISTRATION**

Audit
 Community Services
 Elections
 General Subject
 Grants
 Human Resources
 Information Services
 Legal/Legislative
 Municipal Clerk
 Policies & Procedures
 Public Information
 Public Financing Authority
 Risk Management

DEVELOPMENT

Administration
 Building
 Code Enforcement
 Engineering
 Environmental Quality
 Housing
 Municipal Facilities
 Planning
 Property
 Redevelopment

FINANCE

Accounting
 Administrative Services
 Fixed Assets
 License
 Payroll
 Purchasing
 Reports
 Treasurer

PUBLIC SAFETY

Animal Control*
 Emergency Management
 Fire Safety
 Administration
 Personnel
 Property
 Reports
 Hazardous Materials
 Health & Welfare
 Law Enforcement
 Administration
 Investigations
 Patrol
 Services

PUBLIC WORKS

Parks
 Sanitation/Solid Waste/
 Wastewater
 Streets/Alleys
 Utilities
 Water

TRANSPORTATION

Administration
 Airport
 Ground Transportation
 Harbor

*Anticipate will be addressed by County Officials

INDEX

ITEM	CATEGORY	PAGE
Abandoned Vehicles	Development	C-26
Abandonment	Development	C-28
Abandonment/Vacations	Public Works	C-43
Accident Reports - City Assets	Administration	C-24
Accounting/Cash Reconciliation	Public Safety	C-33
Accounts Payable	Finance	C-29
Accounts Receivable	Finance	C-29
Acquisition/Disposition	Development	C-28
Adjustments	Finance	C-29
Administration – General Subject	Administration	C-19
Administration – Public Financing Authority	Administration	C-23
Administrative/Internal	Public Safety	C-33
Affidavit Index	Administration	C-17
Agenda Reports (Master, Subject Files)	Administration	C-22
Agendas	Administration	C-22
Agendas, Board	Public Works	C-42
Agreements	Transportation	C-47
Air Quality	Development	C-27
Airport Certification	Transportation	C-47
Airport Noise Monitoring and Complaint	Transportation	C-47
Alarm Records	Public Safety	C-33
Annexation Case Files	Development	C-28
Annual Financial Report	Administration	C-17
Apparatus/Vehicle	Public Safety	C-32
Appeals, Civil	Administration	C-22
Applications - Aircraft Storage	Transportation	C-47
Applications - Parking	Transportation	C-47
Applications - Slip Rentals	Transportation	C-47
Applications - Special Events	Transportation	C-47
Applications	Finance	C-29
Applications, Absentee Ballots	Administration	C-17
Applications, Boards, Commissions, Committees	Administration	C-22
Appraisals	Development	C-28
Acquisition/Disposition	Development	C-28
Arrest/Conviction	Public Safety	C-36
Articles of Incorporation	Administration	C-22
Asbestos	Development	C-27
Assessment Districts	Administration	C-23
Assessment Districts	Finance	C-29
Asset Forfeiture - Investigations/Proceedings Case File	Public Safety	C-34
Asset Forfeiture - Notifications	Public Safety	C-34
Assisted, Challenged Voters List	Administration	C-17
Audits	Finance	C-30
Auto for Hire	Transportation	C-48
Ballots	Administration	C-17
Ballots – Prop. 218	Administration	C-17
Bank Reconciliation	Finance	C-29
Bank Statements	Finance	C-30
Benchmark Data	Development	C-25
Benefit Plan Claims	Administration	C-20
Benefit Plan Enrollment, Denied	Administration	C-20

INDEX

ITEM	CATEGORY	PAGE
Bids & Proposals (Unsuccessful)	Development	C-25
Bids, RFQ's, RFP's	Finance	C-30
Billing Records	Finance	C-29
Billing/Customer Records	Public Works	C-44
Biographies	Administration	C-19
Blueprints, Specifications	Development	C-26
Bond, Personnel Fidelity	Administration	C-20
Bonds - Administration	Finance	C-31
Bonds - Security	Development	C-25
Bonds - Development	Development	C-25
Bonds - Account Statements	Finance	C-31
Bonds - Bonds and Coupons	Finance	C-31
Bonds	Administration	C-17
Bonds	Development	C-27
Bonds, Insurance	Administration	C-24
Books, Fire Code	Public Safety	C-32
Brochures, publications, newsletter, bulletins	Administration	C-24
Budget adjustments, journal entries	Finance	C-29
Budget Operating (copies)	Administration	C-17
Budget Operating (copies)	Finance	C-29
Budget	Administration	C-17
Budget, Accounting	Finance	C-29
Budget, Adopted	Finance	C-29
Budget, Proposed	Finance	C-29
Business License	Finance	C-29
Calendar	Administration	C-17
Calendar, City	Administration	C-24
California Environmental Quality Act (CEQA)	Development	C-27
Canvass	Administration	C-17
Capital Improvement Projects	Development	C-27
Capital Improvements, Construction	Development	C-28
Cards - Dispatch	Public Safety	C-38
Cards - Field Interview	Public Safety	C-38
Case Books, Investigative	Public Safety	C-34
Case Files - Homicide Investigator's File	Public Safety	C-34
Case Files - Narcotics (No arrest, Narcotics Cases)	Public Safety	C-34
Case Files - Officer Involved Shootings	Public Safety	C-34
Case Files	Development	C-26
Case Files, Planning and Zoning	Development	C-28
Case Log	Administration	C-22
Case Records - (High Profile)	Administration	C-22
Case Records - (Routine)	Administration	C-22
Certificates (Building)	Development	C-26
Certificates (Planning)	Development	C-28
Certificates of Election	Administration	C-17
Charter - Amendments/Measures	Administration	C-17
Checks	Finance	C-29
Chemicals/Film Inventories	Public Safety	C-39
Citations - 11357(e), Juvenile	Public Safety	C-38
Citations - 11357b H&S, 11357c H&S, 11360b H&S Violations	Public Safety	C-38
Citations - California Vehicle Code Infractions (Duplicates)	Public Safety	C-39

INDEX

ITEM	CATEGORY	PAGE
Citations - Cite and Release	Public Safety	C-38
Citations - Parking/Traffic, Duplicates	Public Safety	C-39
Citations - Transmittals	Public Safety	C-39
Claim Files	Public Safety	C-33
Claims, Damage	Administration	C-24
Classifications and Appointments	Administration	C-19
Closures	Public Works	C-43
Code Books	Development	C-25
Collections/Landfill	Public Works	C-42
Community Development Block Grant and Urban Development	Administration	C-19
Community Services – Library	Administration	C-17
Community Services – Plaques	Administration	C-17
Community Services – Sports Organization	Administration	C-17
Congestion Management	Development	C-27
Connection Records	Public Works	C-44
Construction (Approved)	Development	C-26
Construction Tracking, Daily	Development	C-27
Contractor	Development	C-25
Contracts and Agreements – Excl. Capital Improvement	Administration	C-22
Contracts and Agreements – Incl. Capital Improvement	Administration	C-22
Correspondence	Administration	C-19
Correspondence	Development	C-25
Court - Daily Schedule	Public Safety	C-34
Court - Sign-In Logs	Public Safety	C-34
Court - Tracking System Records	Public Safety	C-34
Crime - Felony Crimes With Or Without Arrests	Public Safety	C-36
Crime - Misdemeanor/Infractions	Public Safety	C-36
Crime - Supplemental, Felony Capital Crimes, Crimes Punishable by Death, Life Imprisonment	Public Safety	C-36
Deeds & Promissory Notes	Development	C-28
Deferred Compensation	Finance	C-30
Department Manual	Public Safety	C-33
Deposits, Receipts	Finance	C-29
Destruction - Guns	Public Safety	C-36
Destruction - Narcotics	Public Safety	C-36
Development (includes CDBG)	Development	C-25
Development Agreements	Development	C-25
Development Conditions	Development	C-25
Development Standards	Development	C-25
Disposition of Arrest/Court Action	Public Safety	C-36
Drawings, Project Plan	Development	C-25
Drawings, Traffic Control Plan	Development	C-27
Easements, Dedications, Rights-of-Way	Public Works	C-43
Employee Handbook	Administration	C-20
Employee Programs	Administration	C-20
Employee Rights	Administration	C-20
Employee Time Sheets	Finance	C-30
Environmental Review	Development	C-27
Equipment - Communication	Public Safety	C-33
Equipment - Inventory	Public Safety	C-33
Equipment - Inventory/Sign-out Cards- Photo Lab	Public Safety	C-39

INDEX

ITEM	CATEGORY	PAGE
Equipment - Operations Files - Photo Lab	Public Safety	C-39
Equipment - Radio Logs (Communication)	Public Safety	C-39
Evidence, Disposition Forms	Public Safety	C-34
Exposure - Personnel	Public Safety	C-32
Facilities (Sanitation/Solid Waste/Wastewater)	Public Works	C-42
Facilities (Utilities)	Public Works	C-44
Facility Rentals/Use	Development	C-28
Fair Political Practices - Administration, Statements	Administration	C-18
Fair Political Practices - Campaign disclosure, elected	Administration	C-18
Fair Political Practices - Campaign disclosure, not elected	Administration	C-18
Fair Political Practices - Campaign disclosure, unsuccessful	Administration	C-18
Fair Political Practices - Candidate Statements	Administration	C-18
Fair Political Practices - History	Administration	C-18
Fair Political Practices - Statement of Economic Interest, Elected	Administration	C-18
Fair Political Practices - Statement of Economic Interest, not elected	Administration	C-18
False Alarm (Duplicate)	Public Safety	C-36
Federal and State Grants	Administration	C-19
Field Books	Public Works	C-43
Field, Non-fire and Logs	Public Safety	C-32
Financial, Annual	Finance	C-30
Financial Records - Grants	Administration	C-19
Financial Records, Public Financial Authority	Administration	C-24
Fingerprint - Applicants Files	Public Safety	C-34
Fingerprint - Inked/Palm Cards	Public Safety	C-34
Fingerprint - Records Latent	Public Safety	C-34
Fingerprint - Suspect, Adult/Juvenile	Public Safety	C-34
Fire, Non-arson and Logs	Public Safety	C-32
Flood Control - Drainage Facilities	Public Works	C-44
Flood Control - Flood Zones	Public Works	C-44
Flood Control - Insurance Programs	Public Works	C-44
Flood Control - Polices/Procedures	Public Works	C-45
Flood Control - Reports/Studies	Public Works	C-45
Flood Control	Development	C-27
Flood Records	Development	C-28
Franchises	Development	C-25
Fueling	Transportation	C-47
Gas & Electric Rates	Public Works	C-44
General Administrative	Administration	C-23
General Orders	Public Safety	C-39
General Orders, Policies/Procedures	Public Safety	C-32
General Plan Amendments - Approved	Development	C-28
General Plan Amendments - Denied	Development	C-28
General Plan and Elements	Development	C-28
General Subject Files	Development	C-25
Goals & Objectives	Administration	C-19
Grants - Parks (<i>refer to Admin.</i>)	Public Works	C-42
Grants - Street/Alleys (<i>see Admin.</i>)	Public Works	C-43
Grants – Water (<i>see Admin.</i>)	Public Works	C-45
Grants, Community/Urban Development (includes CDBG)	Development	C-25
Grievance Files	Public Safety	C-40

INDEX

ITEM	CATEGORY	PAGE
Guns, Dealers Record of Sale	Public Safety	C-34
Hazardous Waste Disposal	Public Safety	C-33
Hazardous Waste Disposal	Transportation	C-47
Hearing or Review	Administration	C-17
Historic Preservation Inventory	Development	C-25
History, Sanitation	Public Works	C-42
Hourly Employees	Administration	C-20
Immigrant	Administration	C-20
Incident Files	Development	C-25
Incident Reports	Administration	C-24
Incident	Public Safety	C-32
Incineration Plants, Sludge	Public Works	C-42
Incinerator Operations, Treatment Plant	Public Works	C-42
Index, Attorney Case	Administration	C-22
Informant Files	Public Safety	C-34
Inspection	Development	C-26
Inspection, Runway	Transportation	C-47
Inspection, Safety Self	Transportation	C-47
Inspections, Fire Prevention	Public Safety	C-32
Insurance, ACCEL JT Powers Agreement	Administration	C-24
Insurance, Certificates	Administration	C-24
Insurance, Liability/Property	Administration	C-24
Insurance, Workers Compensation	Administration	C-24
Internet, World Wide Web	Administration	C-22
Interpretations	Development	C-28
Intersection Records	Public Works	C-43
Inventory	Finance	C-29
Inventory, Equipment Parts & Supplies	Transportation	C-47
Inventory, Equipment & Supplies	Public Safety	C-32&C-33
Inventory, Equipment - Parks	Public Works	C-42
Inventory, Equipment - Water	Public Works	C-45
Inventory, Information Systems	Administration	C-22
Inventory, Records	Administration	C-23
Inventory, Traffic Control Device	Public Works	C-43
Inventory, Vehicle Ownership and Title	Transportation	C-47
Investigations - Background	Public Safety	C-40
Investigations - Background Hired	Public Safety	C-40
Investigations - Notifications	Public Safety	C-34
Investigations, Evidence Arson - Administration	Public Safety	C-32
Investigations, Evidence Arson - Reports	Public Safety	C-33
Investment Transactions	Finance	C-30
Invoices	Finance	C-29
Jail - Daily Logs	Public Safety	C-35
Jail - Inmate Record	Public Safety	C-35
Jail - Inspection Files	Public Safety	C-35
Jail - Surveys	Public Safety	C-35
Journals - Utility Billing	Finance	C-29
Journals, Fire Station	Public Safety	C-32
Labor Distribution	Finance	C-30
Land Uses, non-conforming	Development	C-25
Landscape - Parks	Public Works	C-42
Landscaping – Streets/Alleys	Public Works	C-43

INDEX

ITEM	CATEGORY	PAGE
Ledger, General - Voucher	Finance	C-29
Legal Advertising	Administration	C-23
Licenses - Bicycle	Public Safety	C-35
Licenses - Bingo, Mace	Public Safety	C-35
Licenses - Business License Review Board Administrative Files	Public Safety	C-35
Licenses - Duplicate (Pink), Secondhand Dealer, Pawn Brokers	Public Safety	C-35
Licenses, Permits	Transportation	C-47
Liens & Releases - Recorded	Development	C-26
Liens & Releases - Supporting	Development	C-26
Lighting	Public Works	C-43
Lobbyist Registration	Administration	C-18
Locations	Public Works	C-45
Logs	Development	C-27
Logs - Administration	Development	C-25
Logs - Auto Theft	Public Safety	C-35
Logs - Case Assignment	Public Safety	C-35
Logs - Code Enforcement	Development	C-27
Logs - Daily, Activity	Public Safety	C-35
Logs - Daily, Officer	Public Safety	C-35
Logs - Daily, Report Summary	Public Safety	C-35
Logs - Investigative (Pre-Arrest)	Public Safety	C-35
Logs - Juvenile Detention	Public Safety	C-35
Logs - Property Control	Public Safety	C-35
Logs - Rap Sheet	Public Safety	C-35
Logs - Subpoena	Public Safety	C-35
Logs, Attorney Service Request	Administration	C-23
Logs, Fire Equipment/Gear	Public Safety	C-32
Lot Split Cases	Development	C-28
Maintenance and Operations	Transportation	C-47
Maintenance and Operations - Municipal Facilities	Development	C-28
Maintenance and Operations - Parks	Public Works	C-42
Maintenance and Operations - Sanitation/Solid Waste/Wastewater	Public Works	C-42
Maintenance and Operations - Service	Public Works	C-45
Maintenance and Operations - Streets/Alleys	Public Works	C-43
Maintenance and Operations - Well & Pumping	Public Works	C-45
Maintenance, FAA	Transportation	C-47
Management Reports	Administration	C-24
Maps & Plats	Development	C-26
Maps - Parks	Public Works	C-42
Maps - Streets/Alleys	Public Works	C-43
Maps - Water	Public Works	C-45
Maps, City Boundary	Development	C-28
Maps, Plans, Drawings, Exhibits, Photos	Development	C-28
Maps, Precincts/Voter Information	Administration	C-18
Maps, Septic Tank	Public Works	C-42
Master Plans - Streets/Alleys	Public Works	C-43
Master Plans - Water	Public Works	C-45
Master Plans, Annual	Development	C-26
Media Relations	Administration	C-24

INDEX

ITEM	CATEGORY	PAGE
Medical Leave	Administration	C-20
Medical - Personnel	Public Safety	C-32
Meter Operations	Public Works	C-45
Meter Reading	Finance	C-30
Minutes	Administration	C-23
Minutes, Board	Public Works	C-42
Motor Vehicle Pulls (DMV)	Administration	C-20
Municipal Code	Administration	C-23
Mutual Aid, Strategic Plans	Public Safety	C-32
Negotiation	Administration	C-20
Network Information Systems (LAN/WAN)	Administration	C-22
Nomination Papers	Administration	C-18
Non-Criminal Occurrences	Public Safety	C-36
Non-Safety Employees	Administration	C-21
Notices, Meeting	Administration	C-23
Notifications and Publications	Administration	C-18
Oaths of Office	Administration	C-18
Opinions	Administration	C-23
Ordinances	Administration	C-23
Parades & Special Events File	Public Safety	C-40
Parking - Lots	Public Works	C-43
Parking - Regulations	Public Works	C-43
Patrol Requests (Correspondence)	Public Safety	C-39
Pawn Slips/Tickets	Public Safety	C-35
Permits - Alcoholic Beverage Control License	Public Safety	C-40
Permits - Concealed Weapons	Public Safety	C-40
Permits - National Pollutant Discharge Elimination System (NPDES)	Public Works	C-45
Permits - Others	Public Works	C-45
Permits	Development	C-26
Permits	Public Works	C-43
Permits, Construction	Development	C-26
Permits, Encroachment	Public Works	C-43
Permits, Hazardous Materials Storage	Public Safety	C-33
Permits, Improvement	Public Works	C-43
Permits, Other	Development	C-26
Permits, Oversize Load	Public Works	C-43
Permits, Parking	Public Works	C-43
Permits, Paving	Public Works	C-43
Permits, Uniform Fire Code	Public Safety	C-32
Permits, Use (Temporary)	Public Works	C-43
PERS Employee Deduction Reports	Finance	C-30
PERS, Social Security, SSI	Administration	C-21
Personnel Records (copies)	Administration	C-21
Pest Control	Development	C-27
Petitions - Elections	Administration	C-18
Petitions- Legal/Legislative	Administration	C-23
Photographs - Daily Report (Negatives)	Public Safety	C-35
Photographs - Inmates (Negatives)	Public Safety	C-35
Photographs - Negative Log	Public Safety	C-40
Photographs - Negatives, Misc.	Public Safety	C-40
Photographs - Personnel	Public Safety	C-40

INDEX

ITEM	CATEGORY	PAGE
Photographs	Development	C-26
Photographs - Parks	Public Works	C-42
Photographs - Streets/Alleys	Public Works	C-43
Photographs, Negatives, Film	Administration	C-24
Plans, Capital Improvement, Projects	Public Works	C-43
Plans, Proposed	Public Works	C-42
Policies & Procedures, Departmental	Administration	C-19
Policies and Procedures - Naming and numbering	Public Works	C-43
Policies and Procedures - Speed Limits	Public Works	C-44
Policies and Procedures - Parks	Public Works	C-42
Policies and Procedures - Water	Public Works	C-45
Policy, Council/Proclamations	Administration	C-23
Precinct Records	Administration	C-19
Press Releases	Public Safety	C-40
Press, Video Programs (Community Relations)	Public Safety	C-40
Program Files and Directories	Administration	C-22
Programs - Federal Aid Urban	Public Works	C-44
Programs - Traffic Safety	Public Works	C-44
Programs	Development	C-27
Programs, Household Hazardous Waste	Public Safety	C-33
Projects, Not Completed or Denied	Development	C-26
Promotional Marketing – External, Internal	Administration	C-19
Property Files	Public Safety	C-40
Property Original	Public Safety	C-37
Property, Pawn Broker/Secondhand	Public Safety	C-40
Public Records Request	Administration	C-23
Radar Calibration Records	Public Safety	C-39
Railroad Right-of-way	Public Works	C-42
Range Inventory	Public Safety	C-37
Rates - Sanitation/Solid Waste/Wastewater	Public Works	C-42
Rates - Water	Public Works	C-45
Reclamation	Public Works	C-45
Records Management Disposition Certification	Administration	C-23
Records Management	Administration	C-23
Records Retention Schedule	Administration	C-23
Recruitment	Administration	C-21
Recycling Programs	Public Works	C-42
Redevelopment	Development	C-28
Register	Finance	C-30
Registers, Transient Vessel Reservation	Transportation	C-48
Registration Files, Arson, Sex and Narcotics	Public Safety	C-36
Regulations	Development	C-27
Regulations	Public Works	C-42
Relocation Files	Development	C-28
Report, Accident (Copies)	Transportation	C-48
Reports - Accident and Incident (Aircraft)	Transportation	C-48
Reports - Accident	Public Safety	C-39
Reports - Accident	Public Works	C-42
Reports - Activity	Public Safety	C-33
Reports - Airport Operational (Administrative)	Transportation	C-47
Reports - Airport Operational (Regulatory)	Transportation	C-47
Reports - Audit	Administration	C-17

INDEX

ITEM	CATEGORY	PAGE
Reports - Bridges & Overpasses	Public Works	C-44
Reports - Chemical Emissions	Public Safety	C-33
Reports - Conservation	Public Works	C-45
Reports - Consumption	Public Works	C-45
Reports - Corrosion Control	Public Works	C-45
Reports - Dealer of Gun Sales, Duplicate	Public Safety	C-40
Reports - Departmental	Administration	C-19
Reports - Discharge Monitoring	Public Works	C-45
Reports - Drinking Water Corrections	Public Works	C-45
Reports - Federal and State Tax	Finance	C-30
Reports - Human Resources	Administration	C-21
Reports - Hydrograph	Public Works	C-45
Reports - Inspection	Public Works	C-44
Reports - Lead Service Line	Public Works	C-45
Reports - NOTAM (Notice to Airmen)	Transportation	C-48
Reports - Others	Public Works	C-42
Reports - Public Education	Public Works	C-46
Reports - Quality Parameters	Public Works	C-46
Reports - Sanitary Surveys	Public Works	C-46
Reports - Source Water	Public Works	C-46
Reports - Staff	Administration	C-19
Reports - State Certification	Public Works	C-46
Reports - Studies (Sanitation/Solid Waste/Wastewater)	Public Works	C-42
Reports - Studies	Public Works	C-42
Reports - Studies	Public Works	C-43
Reports - Survey Response Files	Public Safety	C-33
Reports - Tonnage	Public Works	C-42
Reports - Traffic Collision Fatalities	Public Safety	C-39
Reports - Traffic Count	Public Works	C-44
Reports - Variances, Water System	Public Works	C-46
Reports - Vehicle Accident	Public Works	C-44
Reports - Well Level	Public Works	C-46
Reports	Development	C-26
Reports	Public Safety	C-37
Reports, Federal and State - Code Enforcement	Development	C-27
Reports/Studies	Public Works	C-43
Requisitions - Purchase Orders	Finance	C-40
Requisitions - Stores	Finance	C-40
Research Project Files	Public Safety	C-37
Resolutions	Administration	C-23
Resolutions, Board	Public Works	C-42
Restraining Orders, Emergency Protective Orders, Temporary Restraining Orders, Legal Stipulations, Orders After Hearing	Public Safety	C-40
Reviews, Internal/External Periodic	Administration	C-17
Risk Management Reports	Administration	C-24
Roster of Voters	Administration	C-19
Rosters (Divisional)	Public Safety	C-40
Routes, School Bus & Truck	Public Works	C-44
Safety Employees	Administration	C-21
Salary Records	Finance	C-30

INDEX

ITEM	CATEGORY	PAGE
Schedules - Daily	Public Safety	C-40
Schedules - Municipal Clerk	Administration	C-23
Schedules - Watch Assignment/Timekeeping Records	Public Safety	C-40
Schedules, Class & Events	Public Works	C-42
Sealed - Adult Found Factually Innocent	Public Safety	C-38
Sealed - Juvenile	Public Safety	C-38
Seismic Retrofit Program	Development	C-26
Signage	Public Works	C-44
Signs (Temporary)	Development	C-26
Slip Rental Index	Transportation	C-48
Slip Rental Permits	Transportation	C-48
Slip Rental Waiting List	Transportation	C-48
Soil	Development	C-27
Soil Reports	Development	C-27
Sources	Public Works	C-46
Speaker Requests	Public Safety	C-40
Special Districts	Development	C-27
Special Projects	Administration	C-19
State Controller	Finance	C-30
Statistical (Crime Analysis)	Public Safety	C-37
Statistical (UCR), Uniform Crime Reports	Public Safety	C-37
Street Names and House Numbers	Development	C-26
Street/Alley (Abandonment/ Vacation)	Development	C-27
Studies, Special Projects & Areas	Development	C-26
Subpoenas (Duplicate)	Public Safety	C-38
Support Services	Administration	C-19
Surplus Property - Auction	Finance	C-29
Surplus Property - Disposal	Finance	C-29
Surveyor Field Notes	Public Works	C-46
Surveys	Development	C-26
Surveys and Studies	Administration	C-21
Surveys, Water System Sanitary	Public Works	C-46
Tapes - Audio, Telephone and Radio Communications	Public Safety	C-38
Tapes - Audio, Video	Administration	C-23
Tapes - Surveillance/Security Video (Jail)	Public Safety	C-38
Tapes Information Systems	Administration	C-22
Taxes Receivable	Finance	C-29
Tests - Bacteriological Analysis	Public Works	C-46
Tests - Chemical Analysis	Public Works	C-46
Tests - Quality	Public Works	C-46
Tests, Densitometer Results (Photo Lab)	Public Safety	C-40
Traffic Signals	Development	C-27
Traffic Signals	Public Works	C-44
Training - Bulletins	Public Safety	C-41
Training - Event Files	Public Safety	C-41
Training - Lesson Plans, Range	Public Safety	C-41
Training Materials	Public Safety	C-33
Training - Personnel	Public Safety	C-32
Training - Personnel (by name)	Public Safety	C-41
Training - Schedules, Range	Public Safety	C-41
Training Records - Non-Safety	Administration	C-21
Training Records - Personnel (by name)	Administration	C-21

INDEX

ITEM	CATEGORY	PAGE
Training Records - Safety	Administration	C-21
Travel Records	Administration	C-19
Underground	Public Works	C-44
Underground Storage Tank - Maintenance and Operations	Public Safety	C-33
Underground Storage Tank - Compliance	Public Safety	C-33
Unsuccessful Grants	Administration	C-19
Use of Force Supervisory Review Files	Public Safety	C-38
Utility Rebates	Finance	C-30
Valve Main Records	Public Works	C-46
Vehicle Assignment	Transportation	C-47
Vehicle Ownership & Title	Finance	C-29
Vehicle - Assignment Reports	Public Safety	C-39
Vehicle - Down Reports	Public Safety	C-39
Vehicle Mileage Reimbursement Rates	Administration	C-21
Vehicle - Repossession/Private Impounds	Public Safety	C-39
Vehicle - Service Schedules	Public Safety	C-39
Vendor Register	Finance	C-30
Vests, Bulletproof Letters	Public Safety	C-39
Violations, Drinking Water	Public Works	C-46
Violations, Building, Property & Zoning	Development	C-27
Volunteer Card Files	Public Safety	C-41
Voter Affidavits	Administration	C-19
Voter Registration Signature Copy	Administration	C-19
Warrant Register	Finance	C-29
Warrants - Felony	Public Safety	C-38
Warrants - Misdemeanor Criminal	Public Safety	C-38
Warrants - Parking	Public Safety	C-39
Warrants - Served	Public Safety	C-38
Warrants - Traffic	Public Safety	C-39
Warrants - Unserved (Local)	Public Safety	C-38
Weapons, Database	Public Safety	C-39
Weed Abatement	Public Safety	C-33
Weigh Scales	Public Works	C-44
Workers Compensation	Administration	C-24

LEGEND

Records Retention

AC = Active
AU = Audit
CU = Current Year
E = Election
P = Permanent
T = Termination

AD = Adoption
CL = Closed/Completion
DOB = Date of Birth
L = Life
S = Supersede

CITATIONS

B&P – Business and Professions

H&S – Health & Safety

CAC – California Administrative Code

**HUD – Housing and Urban
Development**

CCP – Code of Civil Procedure

**OSHA – Occupational Safety & Health
Act**

CCR – Code of California Regulations

PC – Penal Code

**CEQA – California Environmental
Quality Act**

**POST – Police Officers Standards
Training**

CFR – Code of Federal Regulations

UFC – Uniform Fire Code

EC – Election Code

USC – United States Code

**FMLA – Family & Medical Leave Act,
1993**

WIC – Welfare & Institutions Code

GC – Government Code

ADMINISTRATION

Record Series	Retention	Citation	Descriptor
AUDIT			
Annual Financial Report	CL + 2	GC34090	Independent auditor analysis
Bonds	CL + 10	GC34090; CCP 337.5	Final bond documentation
Budget	P	GC34090	Annual operating budget approved by Legislative Body
Budget Operating (copies)	S	GC34090	Departmental Reference
Hearing or Review	AU + 2	GC34090; OMB A-128	Documentation created and or received in connection with an audit hearing or review
Reports	AU + 4	GC34090; OMB A-128	Internal and/or external
Reviews, Internal/External Periodic	CU	GC34090; GC6250	Daily, weekly, monthly, quarterly or other summary, review, evaluation, log, list, statistics, except a report
COMMUNITY SERVICES			
Libraries	CU + 2	GC 34090	Books, art, gifts, donations, exhibits, theatre, music, special events, etc.
Plaques	P		Historic value
Sports Organization	S + 2		
ELECTIONS			
Affidavit Index	CL + 5	EC 17001	
Applications, Absentee Ballots and Envelopes	E + .5	EC 17505; EC 17302	From date of election
Assisted, Challenged Voters List	E + .5	EC 17304	From date of election
Ballots	E + .5	EC 17302	From date of election; ballots submitted to precincts/City Clerk that were not used - unless contested (EC 17302(c)) retention by court order
Ballots Prop. 218 (Assessment Districts)	P	California Constitution Art. XIII	Property related fees (Assessment Ballot proceeding)
Calendar	E + 2	GC 34090	
Canvass	P	GC 22932; EC 17130; EC 2653	Notifications and Publication of Election; Records used to compile final election results, including tally sheets, voting machine tabulation, detailed breakdown of results; special election results
Certificates of Election	T + 4	GC 81009(a) (d)	Certificates of election; Original reports and statements
Charter Amendments/ Measures	P	GC34458-60; GC34090	Chapter designations by Secretary of State following adoption of voters

ADMINISTRATION (CONTINUED)

Record Series	Retention	Citation	Descriptor
Fair Political Practices			
Administration/ Campaign Statements and Conflict of Interest	CU + 5		FPPC Opinions
Campaign disclosure, Elected	P	GC81009(b) (g)	FPPC Filings
Campaign disclosure, Not Elected	E + 5	GC81009(b)	FPPC Filings
Campaign disclosure - Unsuccessful (all other committees)	E + 7	GC81009	FPPC Filings
Candidate Statements	E + 4		Sample ballot retained permanently.
History	P	GC 34090	History of elections, sample ballots, certificates of destruction, other resolutions re: elections
Statement of economic interest - Elected Officials	T + 7	GC 81009(e)	FPPC Filings
Statement of economic interest - Not Elected	E + 5	GC 81009(b)	FPPC Filings
Lobbyist Registration	P	EC 81009(b)	Statements
Maps, Precincts/Voter Information	E + 2	GC 34090; EC 17501; EC 17301	
Nomination Papers Successful Unsuccessful	E + 4 E + 2	EC 17100 GC 81009(b)	
Notifications and Publications	E + 2	GC 34090	Proof of publication or posting, certification and listing of notice of posting; copy of newspaper notice and certification of offices to be voted for at forthcoming election
Oaths of Office	T + 6	GC34090; 29 USC 1113	Elected Officials
Petitions	.75	EC 17200, 17400; GC 7253.5; EC 14700 + GC 3756:8	From date of filing or election; Initiative, referendum, recall, Charter Amendments

ADMINISTRATION (CONTINUED)

Record Series	Retention	Citation	Descriptor
Precinct Records	E + .5	EC 17503	From date of election: Precinct official material; declaration of intention, precinct board member applications, orders appointing members of precinct boards and designating polling places Includes notice of appointment of office and record of service
Roster (Of Voters)	E + 5	EC 17300	From date of election; Initiative, referendum recall, general municipal election, Charter Amendments
Voter Affidavits	CL + 5	EC 17000	
Voter Registration Signature Copy	CU + 5	EC 17000	Fire, special or school district
GENERAL SUBJECT			
Administration	P	GC 34090	
Biographies	CU + 2	GC34090	
Classifications and Appointments	P	GC 34090; GC 12946; 29 CFR 516.6(2); 29 CFR 1602.4	Includes supplemental Personnel records. Wage rate tables 2 years.
Correspondence/ Originating Department	CU + 2	GC34090(d)	If not attached to agreement or project file
Goals & Objectives	CU + 2	GC34090	Departmental goals & objectives
Policies & Procedures, Departmental	S + 5	GC34090(d)	Retain while current
Promotional Marketing			
External	CU + 7		
Internal	2		
Reports			
Departmental	CU + 2	GC34090	Special/or final summary, review or evaluation
Staff	CU + 2	GC34090	Non-agenda related, includes supporting documentation
Special Projects	CU + 2	GC34090	
Support Services	CU + 2	GC34090	Reproduction; printing; postal/mailing services, other internal resources
Travel Records	CU + 2	GC34090	
GRANTS			
Community Development Block Grant and Urban Development	T + 4	GC34090; 24 CFR 570.502 24 CFR85.42*	Applications, reports, contracts, supporting documents; *OMB Cir. A-102, A-110, A-128
Federal and State	CL + 5	GC34090	Refer to grant application close-out procedure
Financial Records	CL + 5	GC34090	Refer to grant application close-out procedure
Unsuccessful	CL + 2	GC34090	Applications not entitled

ADMINISTRATION (CONTINUED)

Record Series	Retention	Citation	Descriptor
HUMAN RESOURCES			
Benefit Plan Claims	P	GC6250 et seq; OMB A-129 29 CFR 1602.30; 32; Lab Rel Sec 1174*	May include dental, disability, education, health, life and vision including dependent care and Employee Assistance *29 CFR 1637.3; 29 USC 1027; 29 CFR 1627.3; 29 USC 1113
Benefit Plan Enrollment, Denied	CL + 4	GC34090; OMB A-128	
Bond, Personnel Fidelity	T + 2	GC34090	Employee Fidelity Bonds
Employee Handbook	S + 2	GC 34090	General employee information including benefit plans
Employee Programs	CL + 2	GC 34090; GC 12946	Includes EAP and Recognition
Employee Rights General Employees Safety (Police)	T + 2 T + 5	GC12946; 29 CFR 1602; 29 USC 211 (e); 203(m); 207(g)	May include Arbitration, grievances, union requests, sexual harassment and Civil Rights, complaints, disciplinary actions
Hourly Employees	T + 6	GC12946; GC34090*	*29 CFR 1627.3, Labor Relations Section 1174
Immigrant		Immigration Reform/Control Act 1986 Pub. L 99-603	I-9's
Medical Leave	CL + 30	FMLA 1993 US OSHA; 29 CFR ; 1910.20*	May include Family leave; certifications; tests; W-4's; *29 CFR 1602.30.32; 49 CFR 193-9;
Motor Vehicle Pulls (DMV)	CL + 7	GC12946, *	*CA 91009; 8 USC 1324 (a)
Negotiation	P	29 USC Sections 211(c), 203(m), 207(g)	Notes, notebooks, correspondence, contracts, and Memorandums of Agreements

ADMINISTRATION (CONTINUED)

Record Series	Retention	Citation	Descriptor
Non-Safety Employees	T + 3	Reference: 29 CFR 1627.3; CCR Sec 1174; 29 CFR 1602.30.32; GC6250 et seq; 29 CFR; GC 12946, 34090*	Non-safety employees may include: Release Authorizations; Certifications; Reassignments; outside employment; commendations disciplinary actions; terminations; Oaths of Office; evaluations-pre-employee medicals; fingerprints; identification cards (ID=s) *1607.4; 29 CFR 655.202; 29 CFR 516.6 et seq; 45 CFR 1068.6(a)
Personnel Records (copies)	CU + 2	GC34090; GC6250	Attendance; evaluations; drafts; worksheets; postings
PERS, Social Security, SSI	P	29 CFR 1627.3(2); GC 12946, 34090	EEOC/ADEA
Recruitment	CL + 3	Reference: GC12946; GC6250 et seq; 29 CFR 1602 et seq 29 CFR 1607; 29CFR 1627.3	Applications, resumes, alternate lists/logs, indices; ethnicity disclosures; examination materials; examination answer sheets, job bulletins; eligibility; electronic database
Reports	CU + 2	GC34090	Employee statistics, benefit activity; liability loss
Safety Employees	T + 5	Reference: 29 CFR 16273; CCR Sec 1174; 29 CFR 1607.4; *	Police, fire, emergency employees may include; Release Authorizations; Certifications Reassignments; outside employment; commendations disciplinary actions; terminations; Oaths of Office; evaluations-pre employee medicals *29 CFR 1602.30.32; 29 CFR 655.202; 29 CFR 516.6 et seq; 45 CFR 1068.6(a)
Surveys and Studies	CU + 2	GC 12946, 34090; 29 CFR 516.6(2); 29 CFR 1602.14	Includes classification, wage rates
Training Records Non-Safety	CU + 7	GC6250 et seq	Employee applications, volunteer program training, class training materials, internships;
Personnel (by name)	T + 7	GC34090	Paperwork documenting officers internal and external training
Safety	CU + 2	GC34090	Certifications/designations
Vehicle Mileage Reimbursement Rates	S + 2	GC 34090	Annual mileage reimbursement rates

ADMINISTRATION (CONTINUED)

Record Series	Retention	Citation	Descriptor
INFORMATION SERVICES			
Internet, World Wide Web	S + 2	GC34090	Management/Policies and supporting documentation
Inventory, Information Systems	S + 2	GC34090	Hardware/Software Inventory logs; systems manuals
Network Information Systems (LAN/WAN)	CU + 4	GC34090; CCP 337.2; 343	Configuration maps and plans
Program Files and Directories	CU + 2 CU + (2 mos.) CU + 1 CU + .5	GC34090; GC34090.7	Annual backup Daily backup Monthly backup Weekly backup
Tapes Information Systems	CU + 2	GC34090	System Generation
LEGAL/ LEGISLATIVE			
Agendas	CU + 2	GC34090	Original agendas and special meeting notices, including certificates of posting, original summaries, original communications and action agendas for Council, Boards and Commissions
Agenda Reports (Master, Subject Files)	CU + 2	GC34090 (d)	Documentation received, created and/or submitted to Council
Appeals, Civil	CU + 3	CCP 583.320(a)(3); GC 34090	
Applications, Boards, Commissions, Committees	CL + 2	GC34090	Not selected
Applications, Boards, Commissions, Committees	T + 5	GC34090; GC40801	Selected
Articles of Incorporation	P	GC34090; CCP 337.2	
Case Log	CL + 7	CCP 337.2; 343	From Close of cases listed; Chronological listing of cases
Case Records - (High Profile)	P	GC6254	Significant cases which have importance/or set legal precedence. Includes logs, complaints, police reports, court orders, motions, notes, briefs
Case Records	CO + 7	42 USC s1983	Includes logs, complaints, police reports, court orders, motions, notes, briefs, closing statements (unless minors - 3 years after attaining 18)
Contracts and Agreements Excl. Capital Improvement	T + 5	CCP 337.2, 343; B&P7042.5; *	Includes leases, equipment, services or supplies *PU7685; 48 CFR:2; GC53066
Incl. Capital Improvement	P	2.08.110;*	Construction *GC37090a; 4004; H&S 19850
Index, Attorney Case	L	GC6254	Including notations on activities related to case

ADMINISTRATION (CONTINUED)

Record Series	Retention	Citation	Descriptor
Legal Advertising	CU + 4	CCP 343, 349 et seq.; GC 911.2; GC 34090	Includes public notices, legal publications
Logs, Attorney Service Request	CU + 2	GC34090	Service request, summaries of monthly requests
Minutes	P	GC34090(d) ; GC36814; GC40801	Official minutes and hearing proceedings of governing body or board, commission or committee
Notices, Meeting	CU + 2	GC 34090.7, 54960.1(c)(1)	Special meetings
Opinions	S + 2	GC34090; GC6254	Confidential
Ordinances	P	GC34090(d) 40806	Charter amendments; municipal code
Petitions	CU + 1	GC50115; GC6253	Submitted to legislative bodies
Resolutions	P	GC34090(d) 40801	Legislative actions
Tapes, Audio/Video	CU + 3 mos.	GC 34090.7	When used for minute preparation and may have historical value.
MUNICIPAL CLERK			
Assessment Districts	P	GC 34090	Original documentation
Inventory, Records	CU + 2	GC34090; 80 OPS Atty. Gen. 106	Inventory of non-current or inactive records holdings and location, indices. Tapes may be recycled.
Municipal Code	P	GC 34090	Supplements included
Public Records Request	CL + 2	GC 34090	
Records Management	CL + 2	GC34090	Document includes retrieval, transfers - inactive
Records Management Disposition Certification	P	GC34090	Documentation of final disposition or records
Records Retention Schedules	S + 4	CCP 343	
POLICIES/ PROCEDURES			
General Administrative	S + 2	GC34090; 40801	All city policies and procedures
Policy, Council/ Proclamations	S + 2	GC34090	Policies, directives rendered by Council not assigned a resolution or ordinance number
PUBLIC FINANCING AUTHORITY			
Administration	P	GC 34090	

ADMINISTRATION (CONTINUED)

Record Series	Retention	Citation	Descriptor
Financial Records	P	GC 34090, 40802, 53901	
Management Reports	2	GC 34090	
PUBLIC INFORMATION			
Brochures, publications, newsletter, bulletins	S + 2	GC 34090	
Calendar, City	CU + 2	GC 34090	
Media Relations	CU + 2	GC 34090	Includes cable, newspaper, radio, message boards, presentations.
RISK MANAGEMENT			
Accident Reports - City Assets	CL + 7	29 CFR 1904.2; 29,*	Reports and related records * CFR 1904.6
Bonds, Insurance	P	CCP 337.2; 343	Bonds and insurance policies insuring city property and other assets
Claims, Damage	CL + 5	GC34090; GC25105.5	Paid/Denied
Incident Reports	CL + 7	29 CFR 1904.2; 29 CFR 1904.6	Theft, arson, vandalism, property damage or similar occurrence (excluding fire/law enforcement)
Insurance, ACCEL JT Powers Agreement	P	GC34090	(Authority California Cities Excess Liability Insurance) B Accreditation/ MOU=s/agreement/agendas
Insurance, Certificates	P	GC34090	Insurance certificates filed separately from contracts, includes insurance filed by licensees
Insurance, Liability/Property	P	GC34090	May include liability, property, Certificates of Participation, deferred, use of facilities
Insurance, Workers Compensation	P	GC6410; 29 CFR 1910.20	Indemnity; PERS - working files - originals with Administrator
Photographs, Negatives, Film	CL + 2	GC34090	
Risk Management Reports	CL + 5	OMB 1220- 0029; 29 CFR1904.4; GC 34090	Federal OSHA Forms; Loss Analysis Report; Safety Reports ; Actuarial Studies
Workers Compensation	P	CCR 14311; 15400.2; CA Labor Code 110-139.6	Claim Files, Reports, Incidents (working files) originals filed with Administrator

DEVELOPMENT

Record Series	Retention	Citation	Descriptor
ADMINISTRATION			
Benchmark Data	CU + 2	GC34090d	Horizontal, vertical & control
Bids & Proposals (Unsuccessful)	CL + 2	GC34090d	
Bonds Development	CL + 10	CCP 337.5	Housing; Industrial Development
Security	CL + 2	GC34090	Documentation created and or received in connection with the performance of work/services for the city, or for parcel maps and subdivision work
Code Books	P	GC34090e	National Electrical Code, Uniform Building, Fire, Mechanical, Plumbing & Supplements
Contractor	CU + 2	GC34090d	Current listing
Correspondence	CU + 2	GC34090d	Working documentation
Development Conditions	L	GC34090	Mitigation measures; filed with case files
Development Agreements	P	CCP337, 337.1(a), 337.15; GC34090;4 8 CFR 4.703	Infrastructure contracts, franchises. Original maintained for 7 years.
Development Standards	P	GC34090a	Landscape mediums, parkway landscape development, public works construction
Drawings, Project Plan	CU + 2	GC34090d	Does not include those usually filed with case or project
Franchises	P	GC65864, 65869.5, 34090*	Including subdivision agreements, contracts for sale or purchase of property, cable, grant of easements and/pr involving construction of improvements *CCP 337.2, 343; AC16023
General Subject Files	CU + 2	GC34090d	Internal working files including correspondence
Grants, Community/Urban Development (includes CDBG)	CL + 4	24CFR 570.502(b) (3); 241CFR 85.42 & OMB Cir. A- 110, Attach. C; *	Project files, contracts, proposals, statements, reports, sub-recipient dockets, Environmental review, grant documents, applications, inventory, consolidated plan, etc. Includes Section 108 loan guarantee *OMB Cir. A-102 & 128, HUD regulations
Historic Preservation Inventory	2	GC34090d	Historic structures & landmarks
Incident Files	2	GC34090d	Emergency Call Outs
Land Uses, nonconforming	P	GC34090a	Building or site usage which does not conform to current standards
Logs	CU + 5		Logs, registers or similar records listing permits, certificates of occupancy issued; may include inspection, building activity, daily, plan check, utility

DEVELOPMENT(CONTINUED)

Record Series	Retention	Citation	Descriptor
Maps & Plats	P	GC34090a	Engineering & field notes and profiles; cross-section of roads, streets, right-of-way, bridges; may include annexations, parks, tracts, block, storm drains, water easements, bench marks, trees, grading, landfill, fire hydrants, base maps, etc.
Master Plans, Annual	S + 2	GC34090	Special or long range program plan for municipalities – coordination of services; strategic planning
Permits, Construction	P	GC34090a; H&S19850; 4003; 4004	Plans, building, signs, grading, encroachment, including blueprints and specifications
Permits, Other	CL + 2	GC34090d	Alterations, encroachment, excavations, road, street sidewalks & curb alterations, transportation, swimming pool drainage, temporary uses, etc.
Photographs	S + 2	GC34090d	Aerial photographs
Projects, Not Completed or Denied	CL + 2	GC34090d	Building, engineering, planning
Reports	CU + 2	GC34090	Activity, periodic
Seismic Retrofit Program	P	GC34090a	Includes Certificates of Compliance
Street Names and House Numbers	P	GC34090a	Street dedications, closings, address assignment/changes
Studies, Special Projects & Areas	CL + 2	GC34090d	Engineering, joint powers, noise, transportation
Surveys	P	GC34090a	Recording data and maps
BUILDING			
Blueprints, Specifications	CL + 2	GC34090d	Submitted by contractors with application for permit and builds for Certificate of Occupancy
Certificates	L	GC34090a	Compliance, elevation, occupancy which affect real property
Construction (Approved)	P	GC34090a; 4003; 4004; H&S 19850, 19853	New commercial and residential construction, tenant improvements room additions, spa, signs, block wall, remodel including security bonds
Inspection	CL + 2	GC34090d	Correspondence, fees, appeal requests, reports
Permits	P	GC34909a; H&S 19850; 4003;4004	Plans, building, signs, grading, encroachment permits
Signs (Temporary)	S + 2	GC34090d	Home occupations, off-premise signs
CODE ENFORCEMENT			
Abandoned Vehicles	CL + 2	GC34090d	
Case Files	CL + 2	GC34090d	Building, housing and mobile home code violation records including inspections; public nuisance rubbish and weed abatement, vehicle abatement, citations, massage parlor permits, general
Liens & Releases, Supporting Recorded	CL + 2 P	GC34090	Utilities, abatement, licenses

DEVELOPMENT(CONTINUED)

Record Series	Retention	Citation	Descriptor
Logs	CU + 2	GC34090d	Lien Recovery, citations, complaints
Regulations	S + 2	GC34090d	Includes rules
Reports, Federal and State	P	GC34090a	Code enforcement statistics; may contain records affecting title to real property or liens thereon
Violations, Building, Property & Zoning	CL + 2	GC34090d	Supporting code enforcement activity
ENGINEERING			
Capital Improvement Projects	CL + 10	CC337.15	Supporting documents including bidders list, specifications, reports, plans, work orders, schedules, etc.
Construction Tracking, Daily	P	CC337.15	Assesses value of real property
Drawings, Traffic Control Plan	P	GC34090a	Signs, signing & striping, road construction
Flood Control	CL + 2	GC34090d	Storm Drains
Special Districts	P	GC34090a	Supporting documents re: improvement, lighting, underground utility; bonds, taxes & construction
Street/Alley (Abandonment/Vacation)	CL + 2	GC34090d	Relinquishment of rights and fee title
Traffic Signals	CL + 2	GC34090d	Counts, collisions, accidents
ENVIRONMENTAL QUALITY			
Air Quality (AQMD)	CU + 7	CCP 338(k); GC34090	Participants/voucher logs, Total Daily Mileage Survey (TDM); various local authorities; Commute Alternative
Asbestos	P	GC34090a	Documents abatement projects, public buildings
California Environmental Quality Act (CEQA)	P	GC34090a + CEQA Guidelines	Exemptions, Environmental Impact Report, Mitigation monitoring, negative declaration, notices of completion and determination, comments, statements of overriding considerations
Congestion Management	CU + 2	GC34090d	Ride sharing, trip reduction
Environmental Review	CL + 2	GC34090d	Correspondence, consultants, issues, conservation
Pest Control	CU + 2	GC34090d	Pesticide applications, inspections & sampling, documents
Soil	CL + 2	GC34090d	Analysis, construction recommendations
Soil Reports	P	GC34090d	Final Reports
HOUSING			
Bonds	CL + 4	CCP 337	Revenue Bond Documentation
Programs	CL + 3	24 CFR 570.502(b)(3); 24 CFR 85.42 & OMB Cir. A-110, #C	Includes comprehensive Housing Authority Strategy, Meeting Credit Certificate, Housing bond advisory, HOME, In-Lieu Housing Mitigation, Low/Moderate Housing, Rental Housing Assistance

DEVELOPMENT(CONTINUED)

Record Series	Retention	Citation	Descriptor
Redevelopment Budgets	P	GC 34090, 40802, 53901	Includes annual audit
Bond Issues	P	GC43900 et seq.	
MUNICIPAL FACILITY			
Capital Improvements, Construction	P	2.083110; GC34090a; 4004; H&S 19850; GC34090a	Contains records re: Planning, design, construction, conversion or modification of local government-owned facilities, structures & systems
Facility Rentals/Use	CU + 2	GC34090	Permits, contracts, diagrams, schedules, insurance binders
Maintenance & Operations	CU + 2	GC34090d	Service requests, invoices, supporting documentation; buildings, equipment, field engineering, public facilities including work orders and graffiti removal
PLANNING			
Case files, Planning and Zoning	P	GC34909a; H&S 19850; 4003;4004	Pertains to real property. May include blueprints, drawings, maps, plans, reports, evaluations, correspondence, uses, permits, variances, studies, appeals, compliance certificates, lot line adjustments or other planning-related matters brought before legislative body
Certificates	L	GC34090	Retain during life of structure
Flood Records	CU + 2	GC34090	
General Plan and Elements	P	GC34090	Includes sphere of influence
General Plan Amendments			
Approved	CL + 2	GC34090	
Denied	CU + 3	GC65103; *	* GC50110
Interpretations	CU + 2	GC34090	
Maps, Plans, Drawings, Exhibits, Photos	P	GC34090; H&S 19850; GC34090.7	Zoning, tentative subdivision, parcel, land use map, aerial photos, specific plans
PROPERTY			
Abandonment	P	GC34090a	Buildings, Condemnation, Demolition
Acquisition/Disposition	CL + 10	GC34090a; GC6254	Supporting documents re: sale, purchase, exchange, lease or rental of property by City
Annexation Case Files	P	GC34090a	Reports, agreements, public notices
Appraisals	CL + 2	GC34090; GC6254(h)	Exempt until final acquisition or contract agreement obtained
Deeds & Promissory Notes	P	GC34090a *	* 24 CFR 570.502(b)(3); 24 CFR 8.42 & OMB Circ. SA-110
Maps, City Boundary	P	GC34090d	Recorded maps, surveys, monuments
Lot Split Cases	P	GC34090	
Relocation Files	CL + 2	GC34090	e.g., Redevelopment

FINANCE

Record Series	Retention	Citation	Descriptor
ACCOUNTING			
Accounts Payable	AU + 4	GC34090	Invoices, check copies, supporting documents
Accounts Receivable	AU + 4	GC 34090	
Applications	CL + 2	GC34090	Utility connections, disconnects, registers, service
Assessment Districts	P	GC 34090	Collection information; Original documentation files with municipal clerk
Bank Reconciliation	AU + 5	GC34090; 26 CFR 16001-1	Statements, summaries for receipts, disbursements & reconciliation
Billing Records	AU + 2	GC34090	Customer name, service address, meter reading, usage, payments, applications/cancellations
Budget	AU + 2	GC 34090	
Budget adjustments, journal entries	AU + 2	GC34090	Account transfers
Checks	AU + 5	GC34090; CCP 337	Includes payroll, canceled & voided checks
Deposits, Receipts	AU + 4	GC 34090; CCP 337	Checks, coins, currency
Invoices	AU + 2	GC34090	Copies sent for fees owed, billing, related documents
Journals			
Utility Billing	CU + 2	GC34090	Billing including monthly activity
Ledger, General	P	GC34090; *	* CCP 337
Voucher	AU + 4	GC34090; CCP 337	Account postings with supporting documents
Taxes, Receivable	AU + 3	CCP338	
Warrant Register	AU + 2	GC 34090.7	
ADMINISTRATIVE SERVICES			
Budget Operating (copies)	S	GC34090	Departmental Reference
Budget, Proposed	CU + 2	GC34090	Presented to Council
Adopted	P	GC 34090	
FIXED ASSETS			
Inventory	AU + 4	GC34090; 26 CFR 301 65-1(F)	Reflects purchase date, cost, account number
Surplus Property			
Auction	AU + 2	GC34090	Listing of property
Disposal	AU + 4	GC34090; CCP 337	Sealed bid sales of equipment
Vehicle Ownership & Title	L	VC 9900 et seq.	Title transfers when vehicle sold
LICENSE			
Business	T + 4	GC34090; CCP 337	Paid & reports

FINANCE (CONTINUED)

Record Series	Retention	Citation	Descriptor
PAYROLL			
Adjustments	AU + 4	GC 34090 29 CFR 516.5 – 516.6	Audit purposes
Employee Time Sheets	AU + 6	GC34090; 29 CFR 516.2*	Signed by employee for audit & FEMA Reports *20 CFR 516.6(1); IRS Reg. 31.6001-1(e)(z); R&T 19530; LC 1174(d)
PERS Employee Deduction Reports	T + 4	GC34090; CAC 22- 1085-2	Record of deductions (<i>PERS Public Employee Retirement System</i>) *26CFR 31.6001-1;29 CFR 516.5, 516.6, LC 1174(d)
Register	P	GC34090; GC37207	Labor costs by employee & program
Salary Records	T + 3	GC34090; 29 CFR 516.2	Deduction authorization, beneficiary designations, unemployment claims, garnishments
PURCHASING			
Bids, RFQ's, RFP's Successful Unsuccessful	AU + 4 AU + 5 CU + 2	GC34090; CCP 337; *	Requests for Qualifications; Requests for Proposals regarding goods and services * GC 25105-1; GC 34090
Requisitions			
Purchase Orders	AU + 4	GC34090; CCP 337	Original documents
Stores	CU + 2	GC34090	Completed forms for ordering
Vendor Register	P	GC34090	Alpha vendor listing of purchase orders, invoices, account numbers and check date
REPORTS			
Audits	P	GC 34090	
Deferred Compensation	T + 5	GC34090; 26 CFR 16001- 1*	Records of employee contributions and city payments *29 CFR 1627.3(2)
Federal and State Tax	AU + 4	GC34090; 29USC 436 *	Forms 1096, 1099, W-4's and W-2's *26 CFR 31.6001.1-4; IRS REG 31.6001-1(e)(2);R&T 19530;29 CFR 516.5-516.6
Financial, Annual	AU + 7	GC 34090.7	
Investment Transactions	P	GC34090; CCP 337; GC 53607	Summary of transactions, inventory & earnings report
Labor Distribution	AU + 2	GC34090	Costs by employee & program
Meter Reading	CU + 2	GC34090	
State Controller	P	GC34090	Controller may destroy after 5 years
Utility Rebates	CU + 2	GC34090	
TREASURER			
Bank Statements	AU + 2	FC 3368, 30210; GC 43900 et seq.	Financing authority

FINANCE (CONTINUED)

Record Series	Retention	Citation	Descriptor
Bonds			
Account Statements	CL + 10	GC34090; CCP 337.5	Monthly statement of transactions.
Administration	CL + 10	GC34090; CCP 337.5	Supporting documents
Bonds and Coupons	CL + 2	GC34090; 53921	Paid/canceled

PUBLIC SAFETY

Record Series	Retention	Citation	Descriptor
EMERGENCY MANAGEMENT			
Mutual Aid, Strategic Plans	S + 2	GC34090	
FIRE SAFETY ADMINISTRATION			
Books, Fire Code	S + 3	GC34090.7 CCP 340.5	Include OPS manuals
General Orders, Policies/Procedures	S + 2		
Inspections, Fire Prevention	CL + 3	UFC 103.34	Alarm/sprinkler systems, prevention efforts
Investigations, Evidence Arson	P	PC 799	Support prosecution resulting in homicide
Investigations, Evidence Arson	CL + 6	PC 800	Great bodily harm, inhabited structure or property
Journals, Fire Station	CU + 2	GC34090	Activities, personnel, engine company
Permits, Uniform Fire Code	CL + 2	GC34090	
PERSONNEL			
Exposure	T + 30	29 CFR 1910.1020	Sampling results, collection methodology, background
Exposure	T + 1	29 CFR 1910.1020	Laboratory reports and worksheets
Medical	T + 30	29 CFR 1910.1020	
Medical	T + 2	29 CFR 1910.1020; *	Employees less than one year *GC34090
Training	T + 2	GC34090	Certifications/designations
PROPERTY			
Apparatus/Vehicle	CU + 2	GC34090 CCP 340.5 *	Repair and Maintenance *8 CAL Code Reg. 3203 (b) (1)
Inventory, Equipment & Supplies	CU + 2	GC34090	
Logs, Fire Equipment/Gear	CU + 2	GC34090	
REPORTS			
Incident	CL + 3	GC34090 CCP338 *	Dispatch and daily logs *CCP 340.5
Field, Non-fire and Logs	CU + 2	GC34090	
Fire, Non-arson and Logs	CU + 2	GC34090	

PUBLIC SAFETY (CONTINUED)

Record Series	Retention	Citation	Descriptor
Investigations, Evidence Arson	CL + 3	PC 801; UFC 104.32	Structure
Weed Abatement	CL + 2	GC34090	Reports, assessments, resolutions, documentation
HAZARDOUS MATERIALS			
Hazardous Waste Disposal	CU + 10	CAL OSHA; 40 CFR 122.21	Documentation re handling and disposal of hazardous waste
Permits, Hazardous Materials Storage	CU + 2	GC34090	Departments consistently recommend permanent retention of environmentally sensitive materials.
Programs, Household Hazardous Waste	S + 2	GC34090	
Training Materials	S + 2	Cal Code *	Standards and Administration *Reg. 3204(d), et seq.
Underground Storage Tank Compliance Maintenance & Operation.	P CU + 2	GC34090a GC34090	Documents re: storage Location, installation, removal, remediation
LAW ENFORCEMENT ADMINISTRATION			
Accounting/Cash Reconciliation	CU + 2	GC34090	
Alarm Records	CU + 2	GC34090	
Claim Files	CL + 6	PC 832.5	Claim copy, correspondence, photographs, supporting documents relative to incidents involving the Police Department filed by citizens
Department Manual	S		Changes to manual are recorded in the General Orders (permanent)
Equipment Communication Inventory	T + 2 S + 2	GC34090 GC34090	Retained until termination of equipment use; Manuals, instructions, procedures Listing of equipment assigned to division, to whom it is assigned
Reports Activity	CU + 2	GC34090	Weekly/monthly/quarterly/ annual activity/statistical reports by division. Retain only one form for retention period
Chemical Emissions Survey Response Files	CU + 2 CU + 2	GC34090 GC34090	Surveys, responses, correspondence with other agencies requesting statistical data
INVESTIGATIONS			
Administrative/Internal	CL + 5	PC 832.5 EVC 1045 GC 12946 PC 801.5; 803(c) VC 2547	Initiated by citizens complaints or internally initiated; includes complaint, reports, findings

PUBLIC SAFETY (CONTINUED)

Record Series	Retention	Citation	Descriptor
Asset Forfeiture Investigations/ Proceedings Case File	CL + 2	GC34090	
Notifications	CU + 2	GC34090	To legal property owner prior to case filing that property is subject to asset forfeiture proceedings. If case is filed, notification becomes part of forfeiture case file.
Case Books, Investigative	CL + 2	GC34090	Retained by division until a case is suspended/closed; transfer to Records Division to be filed with associated Daily Report (DR) file
Case Files Homicide Investigator's File	P	PC 799	
Narcotics (No arrest, Narcotics Cases)	CL + 2	GC34090	Retained by division until no longer useful for investigative purposes
Officer Involved Shootings	CL + 25	GC34090	
Court Daily Schedule	CU + 1	GC34090.7	Printouts of daily court scheduling
Sign-In Logs	CU + 2	GC34090	Logs officers' names, time in/out for court appearances
Tracking System Records	CU + 2	GC34090	Database records subpoena number, officer name, case number, defendant name, district attorney name, court information disposition
Evidence, Disposition Forms			Attach to duplicate Property Report, file w/DR in Records Division
Fingerprint Applicants Files	T + 2	GC34090	Paperwork authorizing fingerprinting and background checks for city employment applicants and business license applicants
Inked/Palm Cards	AC + 20		Persons booked into detention facility; (Copies distributed to county, state, federal agencies)
Records Latents		Approp. PC Section	1) Retain for applicable case statute of limitation; 2) or until evidence in case is destroyed; Hard copy and digitized
Suspect, Adult/Juvenile	CL	Law Enforcement Management Guide by POST	Adults/juveniles suspected of a crime, taken for comparison. Destroy after original purpose achieved
Guns, Dealers Record of Sale	CU + 6	PC 12070	Applicants, Monthly Gun Audits, Applications Denied, Stolen (DOJ File)
Informant Files	T + 10		Legal notifications, identification information, payment information, activities information

PUBLIC SAFETY (CONTINUED)

Record Series	Retention	Citation	Descriptor
Record Series	Retention	Citation	Descriptor
Jail	CU + 6	GC34090	Daily report of staffing, bookings/releases, transfers, transportation
Daily Logs			
Inmate Record			Dependent on facility's classification; see Laws and Guidelines for Local Detention Facilities by Board of Corrections (State of California)
Inspection Files	CL + 6		Inspections by various agencies
Surveys	CL + 2	GC34090	Prepared quarterly, forwarded to State Board of Corrections
Licenses	CU + 2	GC34090	
Bicycle			
Bingo, Mace	CU + 2	GC34090	
Business	T + 1	GC34090	
License Review Board			
Administrative Files			
Duplicate (Pink),	CU + 2	GC34090	Original to licensee, Blue duplicate to DOJ; Pink duplicate retained by agency; renewals issued annually by local agency
Secondhand			
Dealer,			
Pawn Brokers			
Logs	S		
Auto Theft			
Case	CU + 1		
Assignment			
Daily	CU + 2	GC34090	
Activity			
Officer	CU + 2	GC34090	Daily activity of incidents not reported by use of official report
Report	CU + 2	GC34090	Report numbers, type, names, dates retained for research value
Summary			
Investigative	CL + 10	GC34090	Retained by division until cases are suspended and closed
(Pre-Arrest)			
Juvenile	CU + 2	GC34090	Logs document juvenile processing per CYA
Detention			
Property	CU + 2	GC34090	Logs items coming into and going out of property room
Control			
Rap Sheet	CL + 2	GC34090	Requests for criminal history
Subpoena	CU + 2	GC34090	Subpoenas received/served daily
Pawn Slips/Tickets	CU + 3	B & P 21628	
Photographs			Crime Scene, Registrant/Applicant, Photo file, Accident. Retain according to practical and functional association.
Daily Report	T	GC34090	Assigned DR number, retained as form of evidence, destroyed at same time evidence for associated case is destroyed
(Negatives)			
Inmates	CU + 20		By Prisoner number
(Negatives)			

PUBLIC SAFETY (CONTINUED)

Record Series	Retention	Citation	Descriptor
Registration Files, Arson, Sex and Narcotics	Life of registrant within juris- diction		Fingerprint Card, photo, information also forwarded to DOJ
Arrest/Conviction H&S Section 11357 (b), (c), (d), (e) or H&S Section 11360 (b) violations (Occurring after January 1, 1996)	2 (Man- datory destruc- tion from date of convic-tion or date of arrest with no convic- tion)	H&S 11361.5	Applicable to convictions occurring after January 1, 1996 or arrests not followed by a conviction occurring after January 1, 1996; Exception: H&S 11357(e), the record shall be retained until a juvenile offender attains the age of 18 years, then destroyed pursuant to 11361.5
Arrest/Conviction H&S Section 11357(b), (c), (d), (e) or H&S Section 11360 (b) violations (Occurring before January 1, 1996)	Man-datory Destruc- tion (Upon notice from Depart- ment of Justice)	H&S 11361.5 (c)	Applicable to convictions occurring prior to January 1, 1996 or arrests not followed by a conviction occurring prior to January 1, 1996 for violations of H&S Code 11357, 11364, 11365 and 11550
Crime Felonv Crimes With Or Without Arrests	See descriptor	PC 800 PC 801	Prosecution for an offense punishable by imprisonment in state prison for eight years or more must commence within 6 years after offense commission. Commencement of prosecution defined in PC 804. Exception: See PC 803 - Tolling/Extension of time periods; Appeals process and "Three Strikes" also considerations in assigning retention.
Misdemeanor/ Infractions	CL + 2	GC34090	No arrests, identifiable property or missing persons (See: Note 1)
Supplemental Felonv Capital Crimes, Crimes Punishable by Death, Life Imprisonment	P	PC 799	No statutory limitation for prosecution. Includes Murder, kidnapping for ransom, treason, procuring execution by perjury, train wrecking, assault with a deadly weapon by a life-term prisoner, bombing resulting in death or bodily injury, making defective war materials that cause death
Destruction Guns	P		
Narcotics	P		
Disposition of Arrest/Court Action			Retention determined by action taken; i.e., recordable arrest or detention (released no arrest)
False Alarm (Duplicate)	CU + 2	GC34090	
Non-Criminal Occurrences	CU + 2	GC34090	Injured or sick persons; missing persons where person has been returned; traffic collision reports not used as the basis for criminal charges

PUBLIC SAFETY (CONTINUED)

Record Series	Retention	Citation	Descriptor
Property Original	Until case is adjudicated/disposition determined		Copy retained in records case file; Refer to Managing Property in Law Enforcement Agencies (By POST)
Range Inventory	S + 2	GC34090	Quarterly reports of inventories of weapons and ammunition held by Department Range
Reports	CU + 2	GC34090	Arrest & Citation Register; Arson Offenses; Crimes Against Senior Citizens; Death in Custody; Domestic Violence; FBI Include Return A/Supp; Hate Crime Incidents; Homicide Reports, Supp.; Officers Killed or Assaulted; Original to FBI - DOJ; Uniform Crime Reports
Statistical (Crime Analysis)	CU + 2	GC34090	Internally generated information using activity logs, citizen calls, current and past crime statistic reports, finance dept expenditure and budget records; citations, crime reports, accident reports, permits, receipts. Reports created for variety of purposes including increases/decreases in criminal activity; officer workload, deployment, time usage
Statistical (UCR), Uniform Crime Reports Mandatory to DOJ (LEIC); FBI Include Return A/Supplement; Supplementary Homicide Report; Law Enforcement Officers Killed or Assaulted; Monthly Return of Arson Offenses Know to Law Enforcement; Number of Violent Crimes Committed Against Senior Citizens; Monthly Report of Domestic violence Related Calls for Assistance; Monthly Arrest and Citation Register; Monthly Hate Crimes Incidents; Death In Custody Reporting.	CU + 2	GC34090	Originals sent to FBI, DOJ
Research Project Files	CL + 2	GC34090	May include request forms, background materials, staff reports, final project reports and supporting data

PUBLIC SAFETY (CONTINUED)

Record Series	Retention	Citation	Descriptor
Sealed Adult Found Factually Innocent	Manda-tory Destruc-tion Upon and Pursu- ant to Court Order	PC 851.8	General provision: Upon petition, records of agency must be sealed and destroyed in accordance with the provisions set by court record; exceptions.
Juvenile	Manda-tory Destruc-tion upon and pursu- ant to court order	WIC 826 (a) & (b) WIC 781 (a)	Upon petition, local laws enforcement records within WIC 826(b) may be destroyed as ordered by the court, if related probation and juvenile court records have been destroyed by the probation officer. Records involving arrests, detention and/or petitioning juvenile before juvenile court
Subpoenas (Duplicate)	CU + 2	GC34090	
Tapes Audio, Telephone and Radio Communications	CU + 180 days	GC34090.6	Exception: Recordings used as evidence in a criminal prosecution or claim filed or litigation or potential claims and litigation shall be preserved for 100 days after conclusion of the court action
Surveillance/Se curity Video (Jail)	CU + 13 mos.	GC34090.6	
Use of Force Supervisory Review Files	CU + 2	GC34090	Includes review forms, arrest report copies, logs
Warrants Felony	Recall after 10 years. Excep-tion: Murder/ Escape		Recommended by the California Law Enforcement Warrant Officer's Association
Misdemeanor Criminal	Recall after 5 years		Recommended by the California Law Enforcement Warrant Officer's Association
Served	CU		Includes Warrant Service Information Card, alpha index card
Unserved (Local)	Until served, recalled or purged		
PATROL			
Cards Dispatch	CU + 2	GC34090	
Field Interview	CL + 2	GC34090	
Citations 11357(e), Juvenile	CL + 2	11361.5 H&S	
11357b H&S, 11357c H&S, 11360b H&S Violations	CL + 2	11361.5 H&S*	*CA Admin Code, Chapter 1, Title II, Sec. 708
Cite and Release	CL + 2	GC34090	

PUBLIC SAFETY (CONTINUED)

Record Series	Retention	Citation	Descriptor
California Vehicle Code Infractions (Duplicates)	CU + 90 days	GC34090	Original is forwarded to court.
Parking/Traffic, Duplicates	CU + 2	GC34090.7	Originals are forwarded to court after agency processing; includes citations electronically created
Transmittals	CU + 2	GC34090	Listing of citations forwarded to court, filed for reference
Equipment Radio Logs (Communication)	CU + 2	GC34090	Documents problems, malfunctions, resolution to provide equipment performance history
General Orders	P		
Patrol Requests (Correspondence)	CU + 2	GC34090	From citizens for patrol presence
Radar Calibration Records	T + 2	GC34090	Documentation of Radar instruments retained during use/ownership
Reports Accident	CL + 2	GC34090	Non-Jury
Traffic Collision Fatalities	P		
Vehicle Assignment Reports	S		Record of assignments
Down Reports	CU + 1		Printouts reporting which vehicles are down for repair, maintenance, etc.
Repossession/Private Impounds	CU + 2	GC34090	
Service Schedules	S	GC34090	
Vests, Bulletproof Letters	CU + 2	GC34090	Authorization to purchase
Warrants Parking	Recall after 1 year		Recommended by the California Law Enforcement Warrant Officer's Association
Traffic	Recall after 5 years		Recommended by the California Law Enforcement Warrant Officer's Association
Weapons, Database	P		Departmentally-owned weapons, personal weapons, alternate weapons, secondary handguns; produces inventory reports
SERVICES			
Chemicals/Film Inventories	S		
Equipment Inventory/Sign-out Lab	T		
Operations Files - Photo Lab	T		Retain until equipment no longer owned/used by department; Manuals, instructions, procedures for use/operations of photographic equipment

PUBLIC SAFETY (CONTINUED)

Record Series	Retention	Citation	Descriptor
Grievance Files	CL + 2	GC34090	Grievance filed by employees, supporting documentation
Investigations, Background	CL + 2	GC34090	Non hired
Background Hired	P		Include original reports re: PC 832.5 investigations
Parades & Special Events File	CL + 2	GC34090	Reports, memos, correspondence, scripts, supplier information, assignments, deployments, supporting documentation
Permits Alcoholic Beverage Control License	L + 2	GC34090	Approval process
Concealed Weapons	CL + 2	GC34090	
Photographs Personnel	S + 2	GC34090	
Negative Log	CU + 2	GC34090	
Negatives, Misc.	CU + 2	GC34090	Not case-related (Public relations, promotions, events, ceremonies, staff photos)
Press Releases	CU + 2	GC34090	
Press, Video Programs (Community Relations)	CU + 2	GC34090	Collection of videos of programs and events; outside press coverage of department
Property Files	CU + 2	GC34090	Original reports and supplemental documentation (Lost, Found, Safekeeping)
Property, Pawn Broker/Secondhand	CU + 2	GC34090	Sales, slips. Dealer required to file duplicate with agency
Reports Dealer of Gun Sales, Duplicate	CU + 6 mos.	GC34090.7	Original maintained by DOJ. Dealer required to file duplicate with agency
Restraining Orders, Emergency Protective Orders, Temporary Restraining Orders, Legal Stipulations, Orders After Hearing	CU (See descriptor)		Destroy after law enforcement actions described in PC 273.5, 273.6, 646.9, 12028.5, 13700 and Family Code Sections 6380-6383 are fulfilled and effective date of restraining order has expired.
Rosters (Divisional)	S + 2	GC34090	Personnel assigned to division.
Schedules Daily	CU + 2	GC34090	Schedules of Officers on duty
Watch Assignment/ Timekeeping Records	CU + 2	GC34090	
Speaker Requests	CU + 2	GC34090	Community and business requests for public appearances, speakers
Tests, Densitometer Results (Photo Lab)	T + 2	GC34090	Daily tests of development chemicals/processes for quality control.

PUBLIC SAFETY (CONTINUED)

Record Series	Retention	Citation	Descriptor
Training Bulletins	P		
Event Files	CU + 2	GC34090	Correspondence, brochures, promotional materials, info on speakers, guests, supporting documents
Lesson Plans, Range	CL + 15		Scope, content, time period of courses
Personnel (by name)	T + 7	GC34090	Paperwork documenting officers' internal and external training
Schedules, Range	CU + 2	GC34090	Daily, weekly, monthly schedules of training events at range
Volunteer Card Files	T + 2	GC34090	Volunteers' identification, contact information

Note 1: The destruction of felony, misdemeanor and infraction Crime/Supplemental Reports is permitted providing:

1. They do not relate to an unadjudicated arrest except for H&S 11357 or H&S 11360 violations;
2. They do not relate to unserved warrants;
3. They do not involve identifiable items which have not been recovered;
4. They do not relate to PC 290, PC 457.1, or H&S 11590 registrants;
5. They do not relate to violations listed in PC Sections 799 and 800;
6. The cases are not presently involved in either a civil or criminal litigation.

PUBLIC WORKS

Record Series	Retention	Citation	Descriptor
PARKS			
Agendas, Board	CU + 2	GC34090	
Grants (<i>refer to Admin.</i>)			
Inventory, Equipment	AU + 2	GC34090	Warranties, purchase orders
Landscape	CU + 2	GC34090	Drawings, contracts, complaints, specifications, photos, reports
Maintenance/ Operations	C + 2	GC34090	Includes work orders, inspection, repairs, cleaning, reports, complaints
Maps	P	GC34090	Irrigation, plot plans
Minutes, Board	P	GC34090	
Photographs	S + 2	GC34090	
Plans, Proposed	CU + 2	GC34090	Future plans, new sites, expansions
Policies and Procedures	S + 2	GC34090	Includes rules and regulations
Railroad Right-of-way	CL + 3	36 CFR 64.11	Land acquisitions, correspondence, improvements, statutory records
Reports			
Accident	CL + 2	GC34090	Patrons, employees
Others	CL + 2	GC34090	
Studies	CL + 2	GC34090	Future sites, expansions
Resolutions, Board	P	GC34090	
Schedules, Class & Events	CU + 2	GC34090	Enrollment, liability releases, evaluations, attendance, flyers
SANITATION/ SOLID WASTE/ WASTEWATER			
Collections/Landfill	CU + 2	GC34090	Daily records, usage
Facilities	CU + 2	GC34090	Correspondence, maps, patron list
History, Sanitation	P	GC34090	Where City-owned
Incineration Plants, Sludge	CU + 2	40 CFR 61.54	Sludge, sampling, charging rate to measure mercury content
Incinerator Operations, Treatment Plant	CU + 2	40 CFR 60.153	Gas flow through wet scrubbing, oxygen content of exhaust gas, sludge rate, temperatures, fuel flow, total solids and volatile solids
Maintenance and Operations	CU + 2	GC34090	Includes work orders, inspection, repairs, cleaning, reports, complaints
Maps, Septic Tank	P	GC34090	Location maps
Rates	CU + 2	GC34090	
Recycling Programs	S + 2	GC34090	
Regulations	S + 2	GC34090	Includes legislation
Reports			
Studies	CL + 2	GC34090	
Tonnage	CU + 2	GC34090	

PUBLIC WORKS (CONTINUES)

Record Series	Retention	Citation	Descriptor
STREETS/ALLEYS			
Abandonment/ Vacations	P	GC34090	
Closures	P	GC34090	
Easements, Dedications, Rights-of- Way	P	GC34090	
Field Books	P	GC34090	
Grants (see <i>Admin.</i>)			
Intersection Records	CU + 2	GC34090	Includes correspondence, volume counts, accident history
Inventory, Traffic Control Device	S + 2	GC34090	Signs, lights
Landscaping	CU + 2	GC34090	Plants, tree maintenance, work orders
Lighting	CU + 2	GC34090	Maintenance, work orders
Maintenance/ Operations	CU + 2	GC34090	Includes work orders, inspection, repairs, cleaning, reports, complaints, signals, striping
Maps	P	GC34090	Fire hydrants, lighting districts, wheel chair ramps, storm drains, streets, sidewalks, sewers
Master Plans	CU + 2	GC34090	Copies
Parking			
Lots	CU + 2	GC34090	
Regulations	S + 2	GC34090	
Reports/Studies	CL + 2	GC34090	
Permits			
Encroachment	P	GC34090	
Improvement	CL + 2	GC34090	May include curbs, sidewalks; Applications for excavation, fill, alterations
Oversize Load	CL + 2	GC34090	
Parking	CL + 2	GC34090	Residential
Paving	CL + 2	GC34090	
Use (Temporary)	CU + 2	GC34090	Includes Special Events
Photographs	S + 2	GC34090	Includes aerials
Plans, Capital Improvement, Projects	P	GC34090	Streets, curbs, gutters, sidewalks, storm drains
Policies and Procedures	S + 2	GC34090	Includes rules, regulations, standards
Naming and numbering	P	GC34090	

PUBLIC WORKS (CONTINUES)

Record Series	Retention	Citation	Descriptor
Speed Limits	S + 2	GC34090	
Programs			
Federal Aid Urban	CL +	23 CFR 633 (a) & (c)	
Traffic Safety	S + 2	GC34090	Drivers Education, Pedestrian Safety, Bicycle Lanes
Reports			
Bridges & Overpasses	L	GC34090	Life of structure
Inspection	CU + 2	GC34090	Includes intersection, sidewalks. Bridges and Overpasses, keep life of structure
Studies	CL + 2	GC34090	Traffic volume, accident history, requests, statistics, drawings supporting traffic devices
Traffic Count	CL + 2	GC34090	Evaluation of traffic volume
Vehicle Accident	CL + 2	GC34090	
Routes, School Bus & Truck	S + 2	GC34090	Truck routes, access ramps, rest areas
Signage	L + 2	GC34090	Log books, index register cards, inventory lists, records of traffic signs
Traffic Signals	L		Logs, drawings, wiring diagrams, codes, circuit numbers, installation records, testing and maintenance.
Weigh Scales	S + 2	GC34090	
UTILITIES			
Facilities	T + 2	GC34090	If city owned
Gas & Electric Rates	S + 2	GC34090	
Underground	P	GC34090	GC4003, GC4004; H&S 19850
WATER			
Billing/Customer Records	CU + 2	GC34090	Billings, correspondence, complaints
Connection Records	P	GC34090	Maps, water line connections
Flood Control			
Drainage Facilities	P	GC34090	Includes dams, lakes, basins, creeks
Flood Zones	P	GC34090	Includes flood maps
Insurance Programs	S + 2	GC34090	Includes copies of policies, rules, programs

PUBLIC WORKS (CONTINUES)

Record Series	Retention	Citation	Descriptor
Policies/ Procedures	S + 2	GC34090	Rules and Regulations
Reports/ Studies	CL + 2	GC34090	
Grants (see <i>Admin.</i>)			
Inventory, Equipment	CU + 2	GC34090	
Locations	P	GC34090	Mains, valves, hydrants, wells
Maintenance and Operations	CU + 2	GC34090	Includes work orders, inspection, repairs, cleaning, reports, complaints
Service	CU + 2	GC34090	Includes work orders, entry cards, manholes, service to property owners
Well & Pumping	CU + 2	GC34090	Times operational, power used and quantity
Maps	P	GC34090	Line location; easements
Master Plans	CU + 2	GC34090	Copies
Meter Operations	CU + 2	GC34090	Reader reports, orders, tests Maintenance Reports
Permits			
National Pollutant Discharge Elimination System NPDES)	P	40 CFR 122.28	Municipalities of 100,000/more, compliance with Clean Water Act re: pollutants
Others	CU + 2	GC34090	May depend on terms of state or federal agency
Policies and Procedures	S + 2	GC34090	Includes rules and regulations
Rates	S + 2	GC34090	
Reclamation	CU + 5	40 CFR 122.41	Daily operations including sewage flow, grit removal, chlorine usage, lab analysis results, etc.
Reports			
Conservation	CU + 2	GC34090	
Consumption	CU + 2	GC34090	
Corrosion Control	CU + 12	40 CFR 141.91	Compliance documentation
Discharge Monitoring	CU + 5	40 CFR 122.41	Average amount of pollution discharged into waters of municipality.
Drinking Water Corrections	CU + 10	40 CFR 141.33	
Hydrograph	P	GC34090	Daily flow of streams
Lead Service Line	CU + 12	40 CFR 141.91	Compliance documentation

PUBLIC WORKS (CONTINUES)

Record Series	Retention	Citation	Descriptor
Public Education	CU + 12	40 CFR 141.91	Compliance documentation
Quality Parameters	CU + 12	40 CFR 141.91	Compliance documentation
Sanitary Surveys	CU + 10	40 CFR 141.33	Statistics, reports, correspondence
Source Water	CU + 12	40 CFR 141.91	Compliance documentation, e.g. lead & copper
State Certification	CU + 12	40 CFR 141.91	Compliance documentation
Variations, Water System	CU + 5	40 CFR 141.33	
Well Level	CU + 2	GC34090	
Sources	CU + 2	GC34090	May include wells, rivers, lakes, districts
Surveyor Field Notes	P	GC34090	Notes preparatory to maps of water installations
Surveys, Water System Sanitary	CU + 10	40 CFR 141.33	Statistics, reports, correspondence
Tests			
Bacteriological Analysis	CU + 5	40 CFR 141.33	Compliance records include location, date, method and results; corrections, analysis of bacterial content
Chemical Analysis	CU + 10	40 CFR 141.33	Compliance records include location, date, method used and results; corrections, analysis of chemical content
Quality	CU + 12	40 CFR 141.91	Compliance documentation including sampling data, analysis, reports, surveys, documents, evaluation, schedules, valves, etc.
Valve Main Records	P	GC34090	
Violations, Drinking Water	CU + 3	40 CFR 141.33	Retention applies to each violation

TRANSPORTATION

Record Series	Retention	Citation	Descriptor
ADMINISTRATION			
Agreements	T + 4	CCP 337	Including concessionaire, slip rental, facility storage
Applications Aircraft Storage Parking Slip Rentals	T + 2	GC34090	Payment invoices, inventory listings, billing correspondence and other related documents
Special Events	CU + 2	GC34090	Permits, correspondence, related documents re use of rights of way
Fueling	AU + 3	CCP 337	Meter readings, fuel consumption reports, invoices, receipts and records pertaining to refueling operations
Hazardous Waste Disposal	CU + 10	CAL OSHA; 40 CFR 122.21	Documentation re: the handling and disposal of hazardous waste
Inventory, Equipment Parts & Supplies	L + 2		Includes vehicles, aircraft, vessels and related documents re repairs
Inventory, Vehicle Ownership and Title	L + 2		Owners manual, warranty documents, Department of Motor Vehicle title and registration, and related documents
Licenses, Permits	CU + 2		Forms, related documentation re: licenses and permits required by federal and state agencies
Maintenance/ Operations	L + 2	GC34090	Related to requests for service and work orders for fuel, vehicle and equipment maintenance and repairs
Report, Accident (Copies)	CU + 2	GC34090	Memos and working documents
Vehicle Assignment	CU + 2	GC34090	Log books, request forms, lists
AIRPORT			
Airport Certification	P	14 CFR 139.207b & 171.13- 171.213	Federal Aviation Administration (FAA) required manuals
Airport Noise Monitoring and Complaint	CU + 10		Correspondence, studies, memos, reports, log books, documents related to assessment of noise levels at airports and resolution of complaints
Inspection, Runway	CU + 10		Maintenance including Inspection reports, work orders and related records
Inspection, Safety Self	CU + 2	CFR 139.327	Safety inspection and related document include reviews and analysis of all aspects of airport operation
Maintenance, FAA	P	14 CFR 171.13 - 171.213	Forms and reports required by FAA including Forms FAA-198, -418, -6030-1, -6790-4

TRANSPORTATION (CONTINUED)

Record Series	Retention	Citation	Descriptor
Reports			
Accident and Incident (Aircraft)	CL + 8		Accidents, injuries, property damages, general conditions re pilot and aircraft
Airport Operational (Regulatory)	P		Annual and special reports to federal and state regulatory agencies.
Airport Operational (Administrative)	CU + 2		Logs, statistical summaries; administrative records
NOTAM (Notice to Airmen)	CU + 3		Reports re: conditions affecting airport maintenance/operations
GROUND TRANSPORTATION			
Auto for Hire	T + 4	GC34090	License, permits for Taxicabs, shuttles, etc
HARBOR			
Registers, Transient Vessel Reservation	AU + 3		Reservation applications, receipts, and index registers relating to boats in transit, temporarily moored
Slip Rental Index	CU + 5		Annual and periodic reports of slip renters
Slip Rental Permits	CL + 2		Applications, statement of rental conditions, vessel inspection check sheets, copy of DMV registration, boat owner information, and other documents re: dock slip spaces
Slip Rental Waiting List	CU + 2		

LOCAL GOVERNMENT
RECORDS RETENTION
GUIDELINES

County Records
June 2002
California State Archives

The document entitled “Local Government Records Retention Guidelines, County Records” at one time appeared on this website as Attachment D to Local Government Records Management Guidelines. Upon learning that Gladwell Governmental Services, Inc. asserts a copyright to the document’s content, the Secretary of State has permanently removed the document from this website. If you received from our office, or utilized, downloaded or reproduced from this website any portion of Attachment D, we ask that you contact the business that asserts a copyright to this material, Gladwell Governmental Services, Inc. Gladwell Governmental Services, Inc. can be contacted through its attorney, Kevin D. Hughes, Esq., Tisdale & Nicholson, LLP, 2029 Century Park East, Suite 900, Los Angeles, CA, 90067; telephone (310) 286-1260; fax (310) 286-2351; e-mail: KHughes@T-NLaw.com.

CITY OF OAKLAND

Public Ethics Commission

Lloyd Farnham, Chair
Aspen Baker, Vice-Chair
Roberta Ann Johnson
Benjamin Kimberley
Monique Rivera
Eddie Tejada
Jenna Whitman



Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Whitney Barazoto, Executive Director
DATE: November 19, 2013
RE: Revised Complaint Procedures

Overview

The Commission initiated a project that began in January 2013 to review and amend the Commission's General Complaint Procedures, with the goal of streamlining and clarifying the procedures. The Commission created an ad-hoc Complaint Procedures subcommittee, which met five times in 2013 to discuss and rewrite the process. The subcommittee received and incorporated public input throughout its public subcommittee meeting process.

The attached complaint procedures are the result of these meetings and public input, and the subcommittee presents the draft revised Complaint Procedures for the Commission's review and approval. Also attached is a visual flowchart of the process to facilitate understanding of the proposed process.

Background

Oakland City Charter Section 202 establishes the Public Ethics Commission, and Oakland Municipal Code 2.24 outlines the PEC's functions and duties, authority, process, and staffing. Section 2.24.070 provides that the Commission shall establish rules, regulations, and procedures for the conduct of its business by a majority vote of the members present and shall transmit to the City Council any rules, regulations, and procedures adopted by the Commission within seven calendar days of adoption. Under the ordinance, a procedure adopted by the Commission shall become effective sixty days after the date of adoption by the Commission, unless the City Council vetoes the procedure by a two-thirds vote before the expiration of this sixty day period.

The existing Complaint Procedures have been in place since November 2000, when two sets of procedures – the Sunshine Complaint Procedures and the General Complaint procedures – were consolidated into one document.

Revision Process

The subcommittee met in January 2013 to review the existing procedures, map out the current process, and identify issues and places in the process where bottlenecks occur or where there was an inability to resolve a complaint because of limitations in the procedures. Staff took that direction, consulted the complaint procedures of other local ethics commissions, and drafted a new version of the complaint procedures which the subcommittee revised over the course of four subsequent meetings. The result is a new set of procedures that draws on the written process of other ethics commissions, reflects Oakland's unique framework for the Public Ethics Commission, and has been discussed extensively among the members of the subcommittee.

Summary of Significant Changes

The subcommittee drafted the proposed complaint procedures with three broad goals in mind. First, the subcommittee sought to clarify the definition of a "complaint" to encompass different types of submissions in order to increase the flow of information to the PEC. Second, the subcommittee restructured the rules regarding the review of complaints to allow the PEC and the director to efficiently resolve complaints in situations short of a full investigation, in order to permit the PEC to focus on its priorities and work within resource limitations. Finally, the rules were generally redrafted to modernize the approach and give the PEC the ability to adapt and accommodate potential changes in our jurisdiction or priorities. These goals are summarized in more detail below.

The subcommittee also generally aimed to clarify areas that were ambiguous and simplify language and procedures where possible. The proposed rules moved some provisions, reorganized sections, and removed a few provisions that the subcommittee found unnecessary. The subcommittee made no significant changes to the sections of the rules related to the conduct of hearings; however, there were minor amendments made in that section to ensure consistency with changes made in the other sections.

1. Clarification of the definition of a "complaint"

The proposed rules clarify the definition and concept of a "complaint" to cover the different methods in which individuals express their concerns to the Commission. The goal was to allow more of the incoming information to be dealt with as a "complaint" for consideration by Commission staff, rather than only those filed on a prescribed complaint form. At the same time, the new process gives flexibility to the Executive Director to determine how best to proceed with a complaint that does not meet all of the basic requirements of a formal complaint.

The proposed rules explicitly allow for the complaint process to be initiated by anyone, including any Commissioner, and they also permit the filing of anonymous complainants. The prior rules were silent on the issue of anonymous complaints; the new procedures specifically allow for the filing of anonymous complaints, though the complaints are considered informal complaints that allow discretion to PEC staff to review and investigate.

The proposed rules also allow for the consideration of informal complaints, which are complaints that do not include the complainant's name, contact information, name of the alleged violator, and the facts of the alleged violation. A formal complaint must be reviewed, but an informal

complaint, where some of the basic information may be missing, is subject to the discretion of the Executive Director.

The goal is to increase the amount of information that comes to the Commission, but also provide flexibility to appropriately respond to these informal complaints.

2. Preliminary Review Prior to an Investigation

Under the existing procedures, all filed complaints required some sort of investigation and written recommendation and required that these be completed for all complaints in 45 days from the filing of the complaint. The rules do not provide flexibility depending on the complexity of complaints and do not provide an efficient way to quickly dismiss or close complaints that do not warrant an investigation, such as complaints that are outside the PEC's jurisdiction.

Under the proposed rules, complaints would undergo a preliminary review to determine whether there should be an investigation or some other disposition prior to an investigation. The purpose of this additional level is to permit certain complaints that should not trigger a staff investigation to be resolved quickly, efficiently, and without significant resources. This preliminary review can include investigation beyond the contents of a complaint, if necessary to determine the appropriate disposition, but do not require this in all circumstances.

The proposed rules permit the Executive Director to dismiss complaints with notice to the Commission, or recommend that the Commission close a complaint before an investigation. Dismissal of complaints is limited to certain specified circumstances, such as the complaint is outside the Commission's jurisdiction, or the allegations are already being investigated. All dismissals will be put on the case list provided to the Commission. The Executive Director also can recommend closure of a complaint, which would require formal action by the Commission.

3. Looking to the Future

In a number of places, and in the overall approach, changes to the complaint procedures were intended to accommodate the priorities, jurisdiction, and operation of the PEC in the coming years. One example is the provision that would permit the Commission to do routine investigations or audits without a formal complaint. This expressly states that the Commission can investigate a broad category of conduct, or a particular area of concern, with or without a formal complaint.

Also, the increased flexibility in dealing with complaints—including referring to another agency, closing a complaint by Commission action, and dismissing certain complaints—will make it easier for the Commission to adapt if new ordinances provide the Commission with additional authority under new or amended City ordinances.

Recommendation

The Complaint Procedures subcommittee recommends that the Public Ethics Commission adopt the attached revised General Complaint Procedures in place of the same from 2000.

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CITY OF OAKLAND
PUBLIC ETHICS COMMISSION

COMPLAINT PROCEDURES
Effective January 31, 2014



I. INTRODUCTION

The Public Ethics Commission adopts the following procedures applicable to the Commission's enforcement authority as granted by the Oakland City Charter and Oakland Municipal Code.

A. Purpose. These procedures are intended to ensure a fair, just, and timely process for the review, investigation, and hearing of complaints submitted to the Public Ethics Commission by doing the following:

1. Maintain objective standards for investigations and enforcement of the law,
2. Eliminate any improper influence in the investigation and resolution of complaints,
3. Provide a fair hearing for persons and entities accused of violations,
4. Ensure timely enforcement and complaint resolution, and
5. Coordinate with other governmental agencies to share enforcement responsibility in a manner most appropriate to ensure justice is served.

B. Enforcement Authority. These procedures are applicable to potential violations of the following laws:

1. The Oakland Campaign Reform Act;
2. The Oakland City Council Code of Conduct/Code of Ethics;
3. Conflict of interest regulations as they pertain to City of Oakland elected officials, officers, employees, and members of boards and commissions;
4. The Oakland Limited Public Financing Ordinance;
5. The Oakland Sunshine Ordinance;
6. Lobbyist Registration Act;
7. False Endorsement in Campaign Literature Act; and
8. Any other law or policy over which the Public Ethics Commission has jurisdiction or with which the Commission is charged with overseeing compliance.

II. INTAKE

A. Complaints. A complaint alleging a violation of any law listed above may be submitted by any person, including a member of the public, any employee or official of the City of Oakland, or any member of the Commission.

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1. **Formal Complaints.** A formal complaint must be submitted either 1) in writing on a complaint form as prescribed by the Executive Director of the Commission, or 2) in a manner designated as a method for submitting a formal complaint as determined by the Executive Director. The forms and instructions will be available at the City Clerk's office, on the Commission website, and any other location as determined by the Executive Director.
 - a. **Contents of Formal Complaints.** A formal complaint must be signed or verified by the complainant under penalty of perjury. A formal complaint also must include the following information:
 - i. name, address, and phone number of complainant,
 - ii. name of the respondent, and any known addresses or phone numbers,
 - iii. the facts of the alleged violation,
 - iv. area of law allegedly violated, if known,
 - v. names and addresses of any witnesses, if known, and
 - vi. any documentation that might aid in the investigation of the alleged violation.
 - b. **Effect of Formal Complaints.**
 - i. Upon receipt of a formal complaint, Commission staff will make a reasonable effort to acknowledge receipt of the complaint.
 - ii. The Executive Director shall process and review all formal complaints.
2. **Informal Complaints.** An informal complaint may be submitted by telephone, in person, or in writing.
 - a. **Contents of Informal Complaints.** An informal complaint should include the name of the person or organization believed to have violated the law and the facts of the alleged violation. A complaint submitted on the prescribed complaint form that does not meet the requirements of a formal complaint will be considered as an informal complaint.
 - b. **Effect of Informal Complaints.** The Executive Director has no obligation, but retains discretion, to process and review informal complaints.
 - i. In exercising discretion to process and review informal complaints, the Executive Director should consider the nature of the alleged violation, whether the information contained in the complaint permits review and investigation of the alleged violations, and whether the complainant is justified in submitting the complaint in a form other than the proscribed form.
3. **Anonymous Complaints.** A complaint may be submitted without a name or without identifying the complainant, and these complaints will be considered

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anonymous complaints. An anonymous complaint shall be considered an informal complaint, whether submitted on a formal complaint form or in another form, and the processing of these complaints will be at the discretion of the Director.

- 4. Commission-initiated Complaints.** The Executive Director may initiate a complaint without conforming to any formal complaint requirements. A Public Ethics Commission member may submit a formal or informal complaint. A member of the Commission will be recused from all consideration, review, investigation, or hearing of any complaint submitted by the member, but may provide information or be called as a witness at any hearing on the complaint.
 - 5. Withdrawal of a Complaint.** If a complainant requests that his or her complaint be dismissed or withdrawn, the Commission may continue to review, investigate, and hold hearings or proceedings regarding the violations alleged in the complaint.
 - 6. Repetitive and Unmeritorious Complaints.** Any person who has submitted four (4) complaints with the Commission within a twelve (12) month period and has had each complaint determined adversely to the person, shall be deemed a “repetitive unmeritorious complainant.” Any subsequent complaint submitted by a “repetitive unmeritorious complainant” during the twelve month period must be reviewed by the Chair, and, if deemed unmeritorious on its face, the complaint shall not be processed or reviewed. The Chair's decision shall be final and shall be reflected in the Commission's public report on pending complaints, and the Executive Director shall notify the complainant of the determination. If the Chair determines that there are grounds to investigate any subsequent complaint, the complaint shall be forwarded to the Executive Director to receive and process the complaint.
 - 7. Ex-Parte Communications.** Once a complaint is submitted, no Commissioner shall engage in oral or written communications outside a hearing, interview or settlement conference regarding the merits of an enforcement action with the respondent or complainant or any person communicating on behalf of the respondent or complainant unless the communication is necessary to investigate, remediate, enforce or enter into a stipulated order regarding the alleged violation.
- B. Preliminary Review of Complaints.** Upon receipt of a formal complaint, Commission staff shall conduct a preliminary review of the complaint to determine whether to open an investigation. The preliminary inquiry may include reviewing relevant documents, communicating with the complainant, communicating with the person or entity accused of a violation, and any other reasonable inquiry to determine whether a full investigation is warranted.
- C. Intake Resolution.** After conducting a preliminary review of a complaint, the Executive Director shall open a case for investigation, resolve the complaint by way of dismissal, or recommended closure. The Executive Director shall notify the complainant of the result of the preliminary review in writing.
- 1. Dismissal.** The Executive Director may dismiss a complaint if the allegations do not warrant further action for reasons that may include, but are not limited to the following:

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- a. The allegations, if true, do not constitute a violation of law within the Commission's enforcement jurisdiction.
 - b. The complaint does not include enough information to support further investigation.
 - c. Readily accessible evidence clearly refutes the allegations.
 - d. The allegations in the complaint are already under investigation, or already have been resolved, by the Commission or another law enforcement agency.
 - e. The complaint should be referred to another governmental or law enforcement agency better suited to address the issue.
- 2. Closure.** The Executive Director may recommend closure of a complaint upon intake if it falls within the Commission's jurisdiction but there is reason to support closure as an alternative to opening an investigation. The Commission shall review the Executive Director's determination at a subsequent Commission meeting and must take formal action in order to close the complaint. The Executive Director's recommendation to close the complaint may include one or more of the following actions:
- a. Close with no action
 - b. Close with advisory letter
 - c. Close with warning letter
 - d. Close with additional Commission action, such as holding an informational hearing or providing follow-up training or communications on a matter
- 3. Referral.** The Executive Director may refer a complaint to the appropriate enforcement authority instead of or in addition to dismissal, closure, or the opening of an investigation.
- D. Report to the Commission.** The Executive Director shall notify the Commission of all dismissals by reporting the information, including the action taken and the reason for dismissal, on the next complaint tracking document posted in advance of the Commission's subsequent Commission meeting.
- E. Notification to Respondent.** After the preliminary review of the complaint, if the Executive Director dismisses the complaint, then the Executive Director may notify the respondent of the receipt and dismissal of the complaint. If the Executive Director recommends closure, referral, or the opening of an investigation, then the Executive Director shall notify the respondent of the complaint and the status in writing.
- F. Final Closure.** A dismissal, after notification to the Commission pursuant to subsection II(D), or a closure of a complaint is a final decision and represents closure of the administrative process, and no further action shall be taken other than possible notification to the complainant or respondent or referral of the matter to another entity.

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III. INVESTIGATION

- A. Investigation.** If the Executive Director determines that the allegations in the complaint warrant further inquiry, the Executive Director shall open an investigation regarding the violations alleged in the complaint. An investigation may include, but not be limited to, interviews of the complainant, respondent, and any witnesses, and the review of documentary and other evidence.
- B. Subpoenas During Investigation.** At the request of the Executive Director, the Chair may issue subpoenas during an investigation of a complaint, including subpoenas compelling production or inspection of documents or the appearance of a witness for an interview or testimony.
- C. Written Summary.** After an investigation, the Executive Director shall prepare a written report that includes a summary of the evidence gathered and a recommendation of whether there is probable cause to believe that a violation occurred.
- D. Audit Program.** Commission staff may initiate routine investigations or audits as part of its enforcement program. Such investigations may use a streamlined review process to determine compliance with City ordinances and need not include a full investigation or written summary. Commission staff may create standard forms for summarizing and communicating the audit findings.

IV. RESOLUTION

- A. Commission Review.** Upon review of the Executive Director's written report and recommendation of whether there is probable cause to believe that a violation occurred, the Commission may decide to dismiss, close, request further investigation, request that the Executive Director or designee seek a settlement, or refer the matter to an administrative hearing.
- B. Settlement.** At any time after a complaint has been submitted, the Executive Director may enter into negotiations with a respondent for the purpose of resolving the factual and legal allegations in a complaint by way of a stipulated agreement, followed by Commission approval of the decision.
 - 1. Stipulation.** Any proposed stipulation shall explicitly state that:
 - a. The proposed stipulation is subject to approval by the Commission;
 - b. The respondent knowingly and voluntarily waives any and all procedural rights under the law and under these procedures;
 - c. The respondent understands and acknowledges that any stipulation is not binding on any other law enforcement agency, and does not preclude the Commission or its staff from referring the matter to, cooperating with, or assisting any other government agency with regard to the matter, or any other matter related to it;
 - d. The respondent agrees that in the event the Commission refuses to approve the proposed stipulation, it shall become null and void; and,

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- e. In the event the Commission rejects the proposed stipulation and a full evidentiary hearing before the Commission becomes necessary, no member of the Commission shall be disqualified because of prior consideration of the stipulation.
2. **Commission Decision and Order.** The stipulation shall set forth the pertinent facts and may include an agreement as to anything that could be ordered by the Commission under its authority. Stipulated agreements must be approved by the Commission and, upon approval, be announced publicly.
- C. Mediation.** A complainant who alleges a violation of the Oakland Sunshine Ordinance and whose public records request was denied by a local agency or department may demand mediation of the request with the Executive Director or a mutually agreed upon volunteer mediator.¹
1. Mediation shall commence no later than ten days after the request for mediation is made, unless the mediator determines the deadline to be impracticable.²
 2. The mediator shall attempt to resolve the dispute to the mutual satisfaction of the parties. The mediator's recommendations shall not be binding on any party.³
 3. All statements made during mediation shall not be used or considered for any purpose in any subsequent or related proceeding.⁴
 4. No person may file a complaint with the Commission alleging the failure to permit the timely inspection or copying of a public record unless he or she has requested and participated in mediation.⁵
 5. At the conclusion of mediation, the mediator shall issue a written summary of the issues presented, what efforts were made towards resolution, and how the dispute was resolved or what further efforts the mediator would recommend to resolve the dispute. The report shall be filed with the Commission, provided to all parties and made available for public inspection. The Commission may decide to dismiss, close, or request further action on the mediated issue.
- D. Hearing.** After an investigation pursuant to section III of these Complaint Procedures, if the Executive Director recommends in a written report to the Commission that there is probable cause to believe that a violation occurred, the Commission may refer the matter to an administrative hearing.

V. ADMINISTRATIVE HEARING PROCESS

- A. **Selection of Hearing Panel or Examiner.** If the Commission decides to schedule a hearing pursuant to Section IV(D), the Commission shall decide at that time whether to sit as a hearing panel or to delegate its authority to gather and hear evidence to one or more of its members or to an independent hearing examiner.

1 OMC 2.20.270(C)(1).
2 OMC 2.20.270(C)(2).
3 OMC 2.20.270(C)(3).
4 OMC 2.20.270(C)(3).
5 OMC 2.20.270(F).

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1. If the Commission decides to utilize a hearing examiner, the Executive Director shall select the hearing examiner at random from a pre-approved list. The selected hearing examiner shall disclose any actual or potential conflicts of interest he or she might have with the City of Oakland, the parties, or a Commissioner. In the event a hearing examiner is unavailable or conflicted, another hearing examiner shall be randomly selected from the pre-approved list.
- B. Notice of Hearing.** The Executive Director shall provide notice of the date, time and location of the hearing to each party at least thirty (30) days prior to the date of the hearing. A copy of the notice shall be posted publicly and filed with the Office of the City Clerk at least seven (7) days before the hearing. The notice shall be in substantially the following form:
- "You are hereby notified that a hearing will be held before the Ethics Commission [or name of the hearing examiner or assigned Commissioner(s)] on ____ (date) at the hour of ____, at ____ (location), upon the charges made in Complaint No. _____. At the hearing, you may, but need not, be represented by counsel, and you may present any relevant evidence. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of documents by applying to the Commission on or before _____."
- C. Subpoenas of Persons or Documents.** Any party requesting subpoenas to bring people or documents to the hearing shall notify the Commission's staff no later than fourteen (14) days before the hearing date. The request shall be accompanied by a written statement specifying the name and address of the witnesses, and the importance of their testimony. If the request is for a document subpoena, it shall be accompanied by a statement which includes the following information: a specific description of the documents sought; an explanation of why the documents are necessary for the resolution of the complaint; and the name and address of the witness who has possession or control of the documents. Subpoenas may be issued by the Chair or his or her designee only upon the above showing of good cause. The party requesting the subpoena shall be responsible for its service on the appropriate persons and shall provide a copy to all opposing parties.
- D. Resolution of Preliminary Matters.** No later than seven (7) days before the hearing date, any party may submit in writing preliminary matters for determination by the hearing examiner. If the complaint is to be heard by the full Commission, or by one or more Commissioners, preliminary matters shall be determined by the Chair or his or her designee. The party submitting any preliminary matter for determination shall demonstrate that an attempt to resolve the preliminary matter was made with any opposing party and that copies of the request were delivered to any opposing party. The opposing party shall be allowed to address a request to hear a preliminary matter. The hearing examiner or the Chair may determine preliminary matters upon submission of the written requests and without an oral hearing. Preliminary matters may include, but are not limited to, the following:

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1. Whether multiple claims within a single complaint may be scheduled separately;
2. Whether similar complaints filed by separate individuals or entities may be joined;
3. Scheduling of witnesses;
4. Production of documents and issuance of subpoenas;
5. Scheduling of pre-hearing conferences;
6. Disqualification of any member of the Commission from participation in the hearing on the merits; and
7. Any other matters not related to the truth or falsity of the factual allegations in the accusation.

E. **Conduct of Hearings; Submission of Written Materials.** All materials to be considered at a hearing and not otherwise subpoenaed shall be submitted to the person(s) conducting the hearing, the Executive Director, and to all opposing parties no later than five (5) days prior to the hearing. A written argument need not be submitted. Any written argument submitted shall not exceed fifteen (15) pages, including all supporting documentation. Documentation in excess of fifteen (15) pages is allowed only upon prior approval of the Chair or his or her designee. The relevance of each item submitted shall be clearly indicated.

F. **Conduct of Hearings; Presentation of Testimony; Rules of Evidence.** The hearing on the complaint shall be open to the public, provided that witnesses may be excluded at the discretion of the person(s) conducting the hearing. A period of time will be allowed for public comment. The person(s) conducting the hearing shall brief the audience at the beginning of the hearing on applicable procedures.

1. The hearing shall not be subject to the formal rules of evidence. Documentation and written testimony not in compliance with subsection (E) above may be excluded at the discretion of the person(s) conducting the hearing.
2. The Commission, and any individual Commissioners and hearing officers assigned to conduct hearings, may administer oaths and affirmations.
3. Oral and written testimony shall be received under penalty of perjury. Although the proceedings are informal, testimony shall be brief and confined to the issues. Oral testimony may be excluded if duplicative, irrelevant, or disruptive to the conduct of the meeting. The person(s) conducting the hearing may ask questions of both sides to further clarify facts and viewpoints. Any party may bring a representative and/or interpreter to speak on his or her behalf, but the person(s) conducting the hearing retains the authority to put questions to any party.
4. Special accommodations for disabled persons may be made by providing the Executive Director seventy-two (72) hours advanced notice.
5. While there is no right to cross-examination, the parties shall be allowed the opportunity for rebuttal, and the parties, through the person(s) conducting the hearing, may ask questions of any witness. Except for raising preliminary matters as provided by these procedures, no party may communicate with any

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Commissioner or hearing examiner regarding a complaint outside of the formal public hearing.

- G. **Record of Proceedings.** Proceedings shall be recorded on audio and/or videotape and made available upon request. A party electing to have a stenographer present to record the proceedings may do so upon providing at least three full business days' notice to Commission staff, and at that party's own expense.
- H. **Continuation and Postponement of Hearings.** A postponement may be granted prior to the hearing only upon written request to the Chair or hearing examiner. At the hearing a matter may be postponed or continued only for good cause shown upon approval of the person(s) conducting the hearing.
- I. **Action upon Conclusion of Hearing.** Upon hearing all evidence submitted at the hearing and any arguments by the parties or comments by the public, the hearing shall be closed.
 - 1. If the complaint was heard by a hearing examiner, single member of the Commission or Commission panel, he, she or they may take the matter under submission for a period of no more than fourteen (14) days before delivering to the Executive Director proposed Findings of Fact and Conclusions. Any deliberations by two or more Commissioners shall be done publicly. Upon receipt, the Executive Director shall deliver a copy of the proposed Findings of Fact and Conclusions to all parties.
 - a. No later than seven (7) days after delivery, any party may submit a written request to the Chair that that the person(s) who conducted the hearing be directed to re-hear all or portions of the complaint. The Chair may accept the proposed Findings of Fact and Conclusions as correct unless the party making the request for re-hearing demonstrates that: 1) the proposed Findings of Fact contain one or more material error(s) of fact that necessarily affects one or more Conclusions, or 2) the Conclusions are not supported by substantial evidence.
 - b. The party making the request shall provide a complete copy of the written request to all other parties by the time the written request is submitted to the Chair. Any other party shall have seven (7) days from receipt of the written request to submit written opposition or support to the Chair.
 - c. If the Chair determines there are no grounds to rehear all or portions of the complaint, he or she shall notify the Executive Director, who shall place the proposed Findings of Fact and Conclusions on the agenda for approval at the next regular Commission meeting or any special meeting called by the Chair.
 - d. If the Chair determines that grounds exist to rehear all or portions of the complaint, the Chair may specify what facts need to be established or reviewed, the form and under what circumstances any new evidence shall be received, and a timetable for re-submitting any revised Findings of Fact and Conclusions to the Executive Director.
 - e. The decision of the Chair on any request for re-hearing shall be final.

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2. The Commission shall either adopt the proposed Findings of Fact and Conclusions in their entirety or adopt the Findings of Fact and reach additional or different conclusions consistent with the Findings of Fact.
3. If the complaint was heard by the full Commission, the Commission shall decide, upon conclusion of the hearing and by majority vote of those Commissioners who have heard the evidence, whether a violation has occurred. The Commission may, in the alternative, direct the Executive Director to prepare a Findings of Fact and Conclusions for consideration at the next Commission meeting.
4. The Commission shall determine that a violation of City law over which the Commission has jurisdiction has occurred only if the weight of the evidence shows that it was more likely than not that a violation has occurred.
5. Any Findings of Facts and Conclusions adopted by the Commission may include orders for corrective, remedial or punitive actions (penalties and fines) in accordance with the adopted findings and consistent with Commission authority. The Commission will make its findings and recommendations public.
6. The Commission's decision following a hearing shall be final and shall constitute closure of the administrative process with respect to any complaint.

VI. COURT REVIEW

- A. **Remedies.** Upon conclusion of the administrative process, any party contesting a decision of the Commission may file suit for injunctive relief, declaratory relief, or writ of mandate in any court of competent jurisdiction, within ninety (90) days as provided by law.

VII. COMMISSIONER RECUSAL

- A. **Conflict of Interest or Bias.** A Commissioner or a member of the Commission's staff shall recuse himself or herself from participating in the resolution of any complaint in which he or she has a conflict of interest or in which he or she, by reason of interest or prejudice, cannot perform his or her duties in an impartial manner and free from bias.

VIII. REPEAL, SEVERABILITY, CONFLICT, AND COMMISSION AUTHORITY

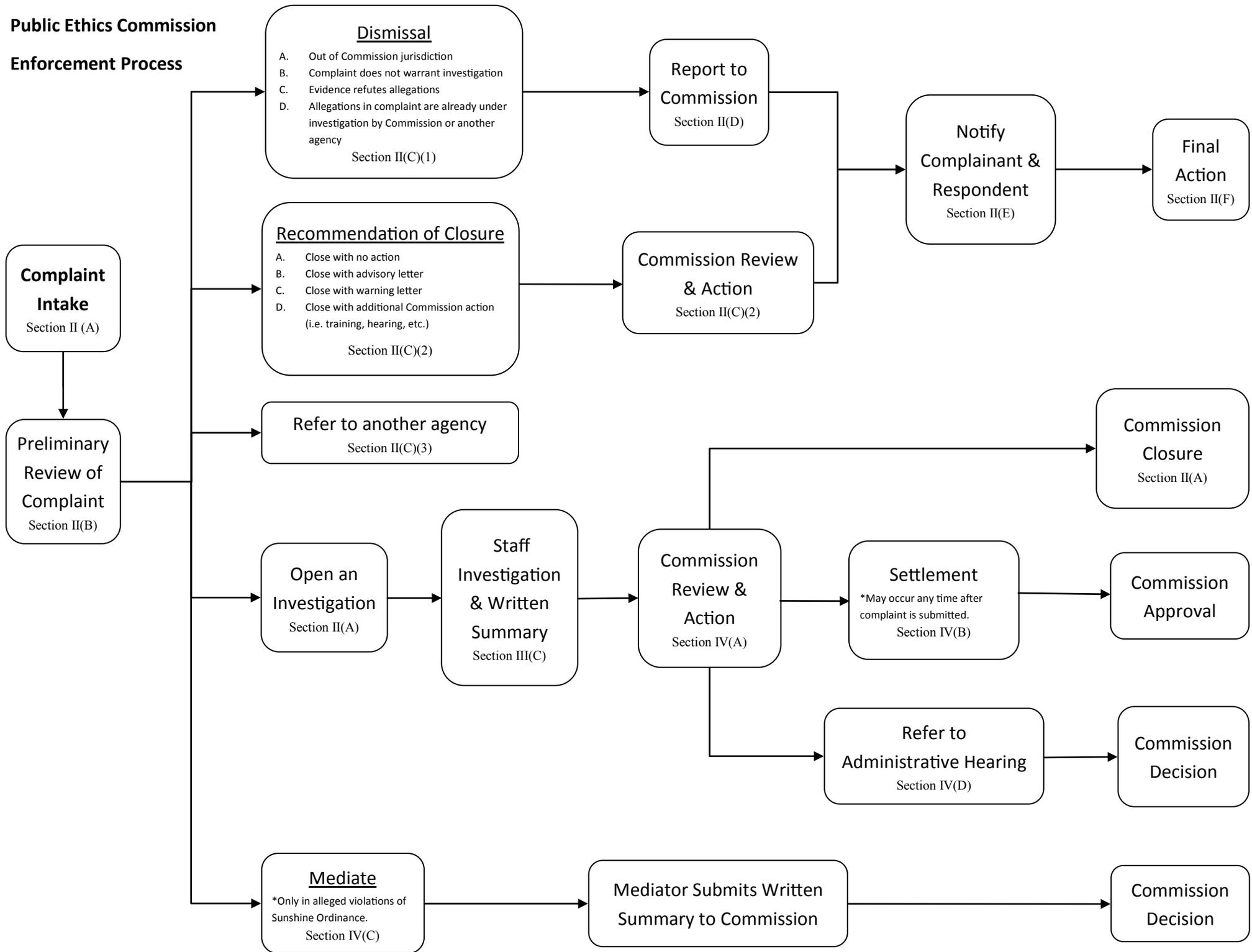
- A. **Repeal.** Upon adoption of these procedures, all prior procedures regulating the administration of complaints filed with the Commission including are hereby repealed.
- B. **Severability.** If the legislature, court or other entity determines that any portion of these rules is invalid, the other remaining rules shall not be affected and will continue in effect.
- C. **Conflict with Law.** To the extent a law or regulation set forth above contains specific procedures or rules that conflict with these General Complaint Procedures, the more specific provisions provided in the laws or regulations set forth above shall control.
- D. **Commission Authority.** Nothing in these complaint procedures limits the Commission's ability to review, refer, make recommendations, or take other actions regarding an issue

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that does not fall within its enforcement authority but which may fall within its general authority to ensure fairness, openness, honesty, and integrity in City government.

Public Ethics Commission

Enforcement Process



CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
GENERAL COMPLAINT PROCEDURES
Effective November 10, 2000



I. SCOPE OF RULES.

A. This procedure is for the review, investigation and hearing of alleged violations of:

1. The Oakland Campaign Reform Act;
2. The Oakland City Council Code of Conduct;
3. Conflict of interest regulations as they pertain to City of Oakland elected officials, officers, employees, and members of boards and commissions
4. The Oakland Limited Public Financing Ordinance;
5. The Oakland Sunshine Ordinance;
6. City of Oakland Code of Ethics, if adopted by the City Council;
7. Requirements concerning the registration of lobbyists, if adopted by the City Council; and
8. Any other law or regulation over which the Public Ethics Commission has jurisdiction.

B. To the extent a law or regulation set forth above contains specific procedures or rules that conflict with these General Complaint Procedures, the more specific provisions provided in the laws or regulations set forth above shall control.

C. Upon filing of a complaint by a member of the public, a City of Oakland employee, or upon the initiation or referral by any member of the Public Ethics Commission ("Commission") or elected official, the Commission may consider whether an individual or entity, including but not limited to elected officials, city officers and employees, is culpable of a violation of any of the laws or regulations set forth in Section I.A. above and subject to any remedy, fine or penalty which the Commission is authorized to impose.

D. Complaint forms shall be made available at the office of the Commission and posted online. The complaint shall not exceed ten (10) pages in length, not including supporting documentation.

II. ACTION TO BE TAKEN UPON RECEIPT OF COMPLAINT.

A. All complaints shall be date stamped at the time of receipt and immediately provided to the Executive Director to the Commission ("Executive Director"), who shall open a file for the complaint and enter the complaint into the Commission's

tracking system. The Executive Director shall timely and reasonably apprise the Commission of all complaints filed. The Executive Director shall provide to any respondent(s) named within the complaint a copy of the complaint and supporting documents within three (3) business days from the date the complaint is received. The Executive Director shall provide all parties with a copy of these procedures. Whether or not named in the complaint, a copy of the complaint shall also be delivered to the Department or Agency head, Board or Commission Chair, or other person responsible for the official conduct of individuals who allegedly violated the laws or regulations under the Commission's jurisdiction.

B. A reporting log shall be maintained by the Commission's staff that chronologically records each complaint that is received, the person, department, agency, board, or commission involved, the nature of the complaint and what resolution or action was taken. A copy of the log shall be provided to the Commissioners at each regular Commission meeting.

III. PRELIMINARY REVIEW OF COMPLAINTS.

A. The Executive Director shall process, review and make recommendations on all complaints expeditiously, and in any event no more than thirty (30) business days of receipt, unless additional time not to exceed fifteen (15) business days is provided by the Chairperson of the Commission ("Chair"). No further extensions shall be permitted except upon approval of the Commission as a whole.

B. After review by the City Attorney for form and legality, the Executive Director may recommend in writing, after an investigation, that:

- (1) The complaint be dismissed for any or all of the following reasons:
 - (a) The Commission has no jurisdiction;
 - (b) The complaint fails to state a basis for relief;
 - (c) The complaint restates other complaints containing substantially similar or identical allegations which have already been determined and the evidence does not warrant reopening the previous case;
 - (d) The allegations contained in the complaint are already under investigation by the Commission;
 - (e) The complaint should be referred to another governmental or law enforcement agency better suited to address the issue;
 - (f) The complaint is time-barred;

(g) The facts fail to support a finding that a violation occurred following an investigation described in subsection C herein; or

(h) The complaint has been resolved pursuant to the procedures set forth in Section IV.

(2) The complaint be referred to the Commission for hearing pursuant to Section VI below.

C. In order for the Executive Director to make his or her recommendation under Section III.B.(1)(g) above, the Executive Director shall first conduct an investigation. Such an investigation shall include, but not necessarily be limited to, an interview of the parties and any witnesses, and the review of documentary and other evidence. The Executive Director may consider statements including hearsay, declarations of investigators or others relating to the statements of witnesses, or the examination of physical evidence. When the investigation is concluded, the Executive Director shall include in his or her written recommendations a summary of evidence gathered and any conclusions. The written recommendation shall conclude whether to dismiss the complaint pursuant to Section III.B.(1)(g) or set the complaint for hearing pursuant to Section VI, below. The written recommendation shall generally not exceed ten (10) pages excluding attachments.

D. The Executive Director's recommendation pursuant to subsections B.(1) or (2) above, shall be placed on the consent calendar for the next regular Commission meeting for approval, unless scheduled for a special meeting at the discretion of the Chair to occur prior to the next regular meeting. If the item is not pulled for discussion and is approved by the Commission, then the Commission's action on the recommendation shall be final. Any two or more members of the Commission may cause the item to be removed from the consent calendar for further discussion and action.

E. The Executive Director shall distribute his or her written recommendation to the complainant and each respondent no later than the last date for completion of a recommendation as specified in Section III.A.

IV. REMEDIAL ACTION

A. For any complaint alleging violation(s) of any city law or regulation to which these procedures apply in which the amount at issue totals \$1,500.00 or less per violation or \$5,000.00 in the aggregate, or for a complaint alleging violation(s) of the Oakland Sunshine Ordinance, the respondent(s) shall have thirty (30) days from the date the complaint is filed to undertake and complete any corrective or remedial action necessary, in the opinion of the Chair or his or her designee, to resolve the dispute. Additional time not to exceed fifteen (15) days may be granted by the Chair if the required corrective or remedial action cannot be reasonably accomplished in the time originally provided. No further extensions shall be permitted except upon

approval by the Commission as a whole. Upon proof of the corrective or remedial action made to the satisfaction of the Chair or his or her designee, the complaint shall be dismissed.

V. REPETITIVE AND UNMERITORIOUS COMPLAINTS

A. Any person who has filed four (4) complaints with the Commission within a twelve (12) month period and has had each complaint determined adversely to the person, shall be deemed a "repetitive unmeritorious complainant."

B. If a complainant seeks to file a complaint during the twelve (12) months following the date that he or she has been deemed a repetitive unmeritorious complainant, the additional complaint will be forwarded to the Chair or his or her designee.

C. If the Chair determines that the additional complaint is unmeritorious on its face, the complaint shall be returned unfiled. In addition, the stated twelve (12) month prohibition shall begin anew from the date the Chair determines that the additional complaint is unmeritorious. The complainant shall be duly notified of the determination. The Chair's decision shall be final and shall be reflected in the Commission's public report on pending complaints.

D. If the Chair determines that there are grounds to proceed to a hearing, the complaint shall be forwarded to the Executive Director to be handled in accordance with the procedures provided in Section VI.

VI. DETERMINING WHETHER TO HOLD A HEARING.

A. For any complaint recommended for hearing by the Executive Director or pulled from the consent calendar pursuant to Section III.D., the Commission may:

- (1) Dismiss the complaint;
- (2) Schedule the complaint for hearing; or
- (3) Refer the complaint back to the Executive Director for further investigation.

B. If the Commission decides to dismiss the complaint, no further action shall be taken [other than the possible referral of the matter to another body as stated in Section III.B.(1)(e) and the Executive Director shall notify the parties in writing of the Commission's determination]. The Commission's decision is final and represents closure of the administrative process.

C. If the Commission decides to schedule a hearing, then a hearing shall be scheduled and conducted pursuant to Section IX. If in a particular case it appears the complainant is not capable of prosecuting the case before the Commission, the Chair

may request that the Executive Director and/or the City Attorney assist the complainant in bringing the matter before the Commission for final adjudication.

VII. CONTINUING JURISDICTION OVER WITHDRAWN COMPLAINTS

A. If the complainant voluntarily requests that his or her complaint be dismissed, the Commission may nevertheless retain jurisdiction over the matter and pursue all or portions of the complaint for a final determination. If so, the Executive Director and/or the City Attorney may be requested by the Chair to cause adjudication of the complaint.

VIII. MEDIATION.

A. Upon the filing of any complaint, the Executive Director shall assist the parties in resolving the dispute. The parties may at any time agree to mediation of any dispute. The Executive Director shall assist the parties in selecting a mediator, if necessary. The mediator shall contact the parties and attempt to resolve the dispute under any procedures which the mediator believes are appropriate.

B. The mediator shall attempt to resolve the dispute within fourteen (14) days of being selected, unless a request to extend time is submitted to the Chair or his or her designee. The Chair or designee retains the discretion to extend time up to thirty (30) days. An extension beyond thirty days may be granted only by the Commission.

C. At the request of the Chair and with the consent of the parties, the mediator shall issue a written report briefly outlining the issues presented, what efforts were made towards resolution, and how the dispute was resolved or what further efforts the mediator would recommend to resolve the dispute. The report shall be filed with the Commission, provided to all parties and made available for public inspection.

D. Costs of mediation shall be borne by the Commission to the extent permitted by available funds.

IX. HEARING PROCEDURE.

A. Selection Of Hearing Panel Or Examiner. If the Commission decides to schedule a hearing pursuant to Section VI.A.(2), the Commission shall decide at that time whether to sit as a hearing panel or to delegate its authority to gather and hear evidence to one or more of its members or to an independent hearing examiner.

(1) If the Commission decides to utilize a hearing examiner, the Executive Director shall select the hearing examiner at random from a pre-approved list. The selected hearing examiner shall disclose any actual or potential conflicts of interest he or she might have with the City of Oakland, the parties, or a Commissioner. In the event a hearing examiner is unavailable or conflicted,

another hearing examiner shall be randomly selected from the pre-approved list.

B. Notice Of Hearing. The Executive Director shall deliver written notice of the date, time and location of the hearing to each party at least thirty (30) days prior to the date of the hearing. A copy of the notice shall be posted publicly and filed with the Office of the City Clerk at least seven (7) days before the hearing. The notice shall be in substantially the following form:

"You are hereby notified that a hearing will be held before the Ethics Commission [or name of the hearing examiner or assigned Commissioner(s)] on ____ (date) at the hour of _____, at _____ (location), upon the charges made in Complaint No. _____. At the hearing, you may, but need not, be represented by counsel, and you may present any relevant evidence. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of documents by applying to the Commission on or before _____."

C. Subpoenas of Persons or Documents. Any party requesting subpoenas to bring people or documents to the hearing shall notify the Commission's staff no later than fourteen (14) days before the hearing date. The request shall be accompanied by a written statement specifying the name and address of the witnesses, and the importance of their testimony. If the request is for a document subpoena, it shall be accompanied by a statement which includes the following information: a specific description of the documents sought; an explanation of why the documents are necessary for the resolution of the complaint; and the name and address of the witness who has possession or control of the documents. Subpoenas may be issued by the Chair or his or her designee only upon the above showing of good cause. The party requesting the subpoena shall be responsible for its service on the appropriate persons and shall provide a copy to all opposing parties.

D. Resolution of Preliminary Matters. No later than seven (7) days before the hearing date, any party may submit in writing preliminary matters for determination by the hearing examiner. If the complaint is to be heard by the full Commission, or by one or more Commissioners, preliminary matters shall be determined by the Chair or his or her designee. The party submitting any preliminary matter for determination shall demonstrate that an attempt to resolve the preliminary matter was made with any opposing party and that copies of the request were delivered to any opposing party. The opposing party shall be allowed to address a request to hear a preliminary matter. The hearing examiner or the Chair may determine preliminary matters upon submission of the written requests and without an oral hearing. Preliminary matters may include, but are not limited to, the following:

1. Whether multiple claims within a single complaint may be scheduled separately;
2. Whether similar complaints filed by separate individuals or entities may be joined;
3. Scheduling of witnesses;
4. Production of documents and issuance of subpoenas;
5. Scheduling of pre-hearing conferences.
6. Disqualification of any member of the Commission from participation in the hearing on the merits; and
7. Any other matters not related to the truth or falsity of the factual allegations in the accusation.

E. Conduct of Hearings; Submission of Written Materials. All materials to be considered at a hearing and not otherwise subpoenaed shall be submitted to the person(s) conducting the hearing, the Executive Director, and to all opposing parties no later than five (5) days prior to the hearing. A written argument need not be submitted. Any written argument submitted shall not exceed fifteen (15) pages, including all supporting documentation. Documentation in excess of fifteen (15) pages is allowed only upon prior approval of the Chair or his or her designee. The relevance of each item submitted shall be clearly indicated.

F. Conduct of Hearings; Presentation of Testimony; Rules of Evidence. The hearing on the complaint shall be open to the public, provided that witnesses may be excluded at the discretion of the person(s) conducting the hearing. A period of time will be allowed for public comment. The person(s) conducting the hearing shall brief the audience at the beginning of the hearing on applicable procedures.

(1) The hearing shall not be subject to the formal rules of evidence. Documentation and written testimony not in compliance with subsection E. above may be excluded at the discretion of the person(s) conducting the hearing.

(2) Oral and written testimony shall be received under penalty of perjury. Although the proceedings are informal, testimony shall be brief and confined to the issues. Oral testimony may be excluded if duplicative, irrelevant, or disruptive to the conduct of the meeting. The person(s) conducting the hearing may ask questions of both sides to further clarify facts and viewpoints. Any party may bring a representative and/or interpreter to speak on his or her behalf, but the person(s) conducting the hearing retains the authority to put questions to any party.

(3) Special accommodations for disabled persons may be made by providing the Executive Director seventy-two (72) hours notice in advance.

(4) While there is no right to cross-examination, the parties shall be allowed the opportunity for rebuttal, and the parties, through the person(s) conducting the hearing, may ask questions of any witness. Except for raising preliminary matters as provided by these procedures, no party may communicate with any Commissioner or hearing examiner regarding a complaint outside of the formal public hearing.

G. Record of Proceedings. Proceedings shall be recorded on audio and/or videotape and made available upon request. A party electing to have a stenographer present to record the proceedings may do so upon providing at least one full business day's notice to Commission staff, and at that party's own expense.

H. Continuation and Postponement of Hearings. A postponement may be granted prior to the hearing only upon written request to the Chair or hearing examiner. At the hearing a matter may be postponed or continued only for good cause shown upon approval of the person(s) conducting the hearing.

I. Action Upon Conclusion of Hearing. Upon hearing all evidence submitted at the hearing and any arguments by the parties or comments by the public, the hearing shall be closed.

(1) If the complaint was heard by a hearing examiner, single member of the Commission or Commission panel, he, she or they may take the matter under submission for a period of no more than fourteen (14) days before delivering to the Executive Director proposed Findings Of Fact and Conclusions. Any deliberations by two or more Commissioners shall be done publicly. Upon receipt, the Executive Director shall deliver a copy of the proposed Findings Of Fact and Conclusions to all parties.

a. No later than seven (7) days after delivery, any party may submit a written request to the Chair that that the person(s) who conducted the hearing be directed to re-hear all or portions of the complaint. The Chair may accept the proposed Findings Of Fact and Conclusions as correct unless the party making the request for re-hearing demonstrates that: 1) the proposed Findings Of Fact contain one or more material error(s) of fact that necessarily affects one or more Conclusions, or 2) the Conclusions are not supported by substantial evidence.

b. The party making the request shall provide a complete copy of the written request to all other parties by the time the written request is submitted to the Chair. Any other party shall have seven (7) days from

receipt of the written request to submit written opposition or support to the Chair.

c. If the Chair determines there are no grounds to rehear all or portions of the complaint, he or she shall notify the Executive Director, who shall place the proposed Findings Of Fact and Conclusions on the consent calendar for approval at the next regular Commission meeting or any special meeting called by the Chair.

d. If the Chair determines that grounds exist to rehear all or portions of the complaint, the Chair may specify what facts need to be established or reviewed, the form and under what circumstances any new evidence shall be received, and a timetable for re-submitting any revised Findings Of Fact and Conclusions to the Executive Director.

e. The decision of the Chair on any request for re-hearing shall be final.

(2) Any proposed Findings Of Fact and Conclusions may be removed from the consent calendar for discussion and determination pursuant to Section III.D. The Commission shall either adopt the proposed Findings Of Fact and Conclusions in their entirety or adopt the Findings Of Fact and reach additional or different conclusions consistent with the Findings of Fact.

(3) If the complaint was heard by the full Commission, the Commission shall decide, upon conclusion of the hearing and by majority vote of those Commissioners who have heard the evidence, whether a violation has occurred. The Commission may, in the alternative, direct the Executive Director to prepare a Findings Of Fact and Conclusions for consideration at the next Commission meeting.

(4) The Commission shall determine that a violation of City law over which the Commission has jurisdiction has occurred only if the weight of the evidence shows that it was more likely than not that a violation has occurred.

(5) Any Findings Of Fact and Conclusions adopted by the Commission may include orders for corrective, remedial or punitive actions (penalties and fines) in accordance with the adopted findings and consistent with Commission authority. The Commission shall not order or make recommendations imposing discipline for city personnel. The Commission may inform the public of its findings and recommendations by any means appropriate.

(6) The Commission's decision following a hearing shall be final and shall constitute closure of the administrative process with respect to any complaint.

X. COURT REVIEW (INJUNCTIVE RELIEF; WRIT OF MANDAMUS).

Upon conclusion of the administrative process, any party contesting a decision of the Commission may file suit for injunctive relief, declaratory relief, or writ of mandate in any court of competent jurisdiction, within ninety (90) days as provided by law.

XI. RECUSAL OF COMMISSIONERS OR COMMISSION STAFF.

A Commissioner or a member of the Commission's staff shall recuse himself or herself from participating in any decision in which he or she has a conflict of interest or in which he or she, by reason of interest or prejudice, cannot perform his or her duties in an impartial manner and free from bias.

XII. MISCELLANEOUS PROVISIONS.

A. Ex Parte Communications. Once a complaint is filed, no Commissioner or staff member shall engage in oral or written communications outside a hearing, interview or settlement conference regarding the merits of an enforcement action with the respondent or complainant or any person communicating on behalf of the respondent or complainant unless the communication is necessary to investigate, remediate, enforce or enter into a stipulated order regarding the alleged violation.

B. Access to Complaints and Related Documents and Deliberations. Complaints, responses thereto, and all related documents shall be public records subject to the provisions of the Oakland Sunshine Ordinance and/or the California Public Records Act [Government Code Sections 6250 et. seq.]

C. Oaths and Affirmations. The Commission, and individual Commissioners and hearing officers assigned to conduct hearings, may administer oaths and affirmations.

D. Powers and Duties of Independent Hearing Examiners and Commission Panels.

(1) Unless otherwise provided, whenever the Commission assigns a Commissioner, a panel of Commissioners, or hearing examiner to hear any matter under these procedures, the assigned Commissioner, panel or hearing examiner shall have the same authority, and be subject to the same restrictions, as the Commission.

E. Referrals to Other Enforcement Agencies. At any time after the Commission takes jurisdiction over a complaint, the Commission shall refer the matter to another government agency or official if the Commission determines that the agency or official is more likely to resolve the allegations in the complaint or appropriately enforce the applicable provisions of law. A copy of all information gathered by the Commission staff shall be sent to the agency or official together with the referral.

F. Stipulated Orders.

(1) At any time after a complaint has been filed, the Chair or his or her designee may enter into negotiations with a respondent for the purpose of resolving the factual and legal allegations in a complaint by way of a stipulation, decision and order. Any proposed stipulation, decision and order shall explicitly state that:

(a) The proposed stipulation, decision and order is subject to approval by the Commission;

(b) The respondent knowingly and voluntarily waives any and all procedural rights under the law and these procedures;

(c) The respondent understands and acknowledges that any stipulation is not binding on any other law enforcement agency, and does not preclude the Commission or its staff from referring the matter to, cooperating with, or assisting any other government agency with regard to the matter, or any other matter related to it;

(d) The respondent agrees that in the event the Commission refuses to approve the proposed stipulation, it shall become null and void; and,

(e) In the event the Commission rejects the proposed stipulation and a full evidentiary hearing before the Commission becomes necessary, no member of the Commission shall be disqualified because of prior consideration of the stipulation.

(2) The stipulated order shall set forth the pertinent facts and may include an agreement as to anything that could be ordered by the Commission under its authority.

(3) Stipulated orders must be approved by the Commission and, upon approval, be announced publicly. The stipulated order shall have the full force of an order of the Commission.

G. Place of Service or Delivery. The Commission, its members, or the Executive Director, may be served, and delivery shall be effected, at the Commission office.

H. Time To Initiate A Complaint. Except as herein provided, a complaint alleging violation of any ordinance, regulation or resolution under the jurisdiction of the Commission shall be filed within the time specified in said ordinance, regulation or resolution. If no time period is specified, the complaint must be filed within four (4) years. A complaint alleging violation of the Oakland Sunshine Ordinance shall be filed within sixty (60) days of the alleged violation. Failure to initiate a complaint within

the time provided shall be grounds for dismissal of the complaint pursuant to Section III.B.(f).

I. Waiver. Except as otherwise provided herein, the failure to comply with the time limitations set forth in these procedures shall constitute a waiver of any respective right to which said time limitations apply.

XIII. REPEAL.

Upon adoption of these procedures, all prior procedures regulating the administration of complaints filed with the Commission including, without limitation, the so-called "Sunshine Ordinance Complaint and Hearing Procedures," are hereby repealed.

XIV. SEVERABILITY.

If the legislature, court or other entity determines that any portion of these rules is invalid, the other remaining rules shall not be affected and will continue in effect.

CITY OF OAKLAND
Public Ethics Commission



RESOLUTION NO. 13-02
[Adopted 12-2-13]

By action of the Oakland Public Ethics Commission:

WHEREAS, Oakland City Municipal Code Chapter 2.23.070 requires the Public Ethics Commission (Commission) to establish rules, regulations and procedures for the conduct of its business by majority vote of the members present; and

WHEREAS, the Commission's existing General Complaint Procedures were adopted November 10, 2000, in order to establish procedures for the submission, processing, consideration, and adjudication of complaints submitted to the Commission; and

WHEREAS, to ensure a fair, just, and timely process for the review, investigation, and hearing of complaints submitted to the Commission, the Commission sought to modernize, streamline, and clarify its complaint process to allow the Commission to operate more effectively within resources; and

WHEREAS, the Commission established a subcommittee that began work in January 2013 to review and revise the General Complaint Procedures through an iterative, public process; and

WHEREAS, the Complaint Procedures subcommittee held five public meetings during 2013 to discuss and redesign the Commission's complaint process and to discuss potential amendments to the procedures for consideration of complaints, and the subcommittee submitted a draft to the full Commission on December 2, 2013; and

WHEREAS, the Commission seeks to amend the General Complaint Procedures to establish procedures for resolving complaints in a timely, responsive, and effective manner, and to protect the interests of parties submitting complaints and parties subject to complaints; and

Now, therefore be it:

RESOLVED, that the Commission does hereby adopt these amended General Complaint Procedures, effective January 31, 2014, unless vetoed by a two-thirds vote of the Oakland City Council.

CERTIFICATION OF APPROVAL OF RESOLUTION

The foregoing Resolution was presented for approval at a duly noticed meeting of the City of Oakland Public Ethics Commission held on December 2, 2013, where a quorum of the membership of the Commission was present. The Commission approved the resolution by a vote of ____ to ____.

I hereby certify that the foregoing is true and correct.

Whitney Barazoto, Executive Director
Oakland Public Ethics Commission

Date

CITY OF OAKLAND

Public Ethics Commission

Lloyd Farnham, Chair
Aspen Baker, Vice-Chair
Roberta Ann Johnson
Benjamin Kimberley
Monique Rivera
Eddie Tejada
Jenna Whitman



Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Whitney Barazoto, Executive Director
DATE: November 20, 2013
RE: Drafting an Ethics Ordinance

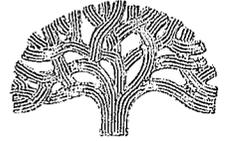
Oakland Municipal Code Section 2.24.020 outlines the Commission's functions and duties, providing that "on behalf of the city, its elected officials, officers, employees, boards and commissions" the Commission may recommend legislative amendments, including the adoption of additional penalty provisions, to the City Council regarding local ordinances related to public ethics. The Public Ethics Commission issued a letter to City Council in September 2013 articulating the need for the City to adopt a local Ethics Ordinance and to provide the Commission with increased staffing to support effective ethics prevention and enforcement in City government. Currently, there is no local ethics ordinance in Oakland, and the Commission has no legal authority to impose penalties for violations of ethics laws.

Following the Commission's letter to City Council, Commission staff submitted a request to the City Attorney's office for additional support in drafting the language for an ethics ordinance. The City Attorney authorized Alix Rosenthal, the Commission's legal counsel, to begin drafting the ordinance for completion by January. This is an augmentation of the time availability previously devoted to the Commission by the City Attorney's office.

Meanwhile, City Council member Dan Kalb is continuing to work with a group of advisors to draft amendments to the Public Ethics Commission's structure, authority, and resources, and an ethics ordinance has been discussed in that group as well. Given that interest and ensuing discussion, Commission staff will continue to work with Council member Kalb as his workgroup develops proposals in this area.

Recommendation

Commission staff and legal counsel will proceed with the drafting of a local ethics ordinance and suggests the Commission create an Ethics subcommittee to participate in the preparation and initial review of the draft ordinance. Staff also invites public input in the drafting of the ordinance over the next several weeks via communication to ethicscommission@oaklandnet.com or by visiting www.engageoakland.com.



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Public Ethics Commission

(510) 238-3593
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September 3, 2013

President Kernighan and Council Members
Oakland City Council
1 Frank Ogawa Plaza
Oakland, CA 94612

Dear City Council Members,

On July 24, 2013, the Public Ethics Commission (PEC) held a public discussion around the question of what is needed to create an effective ethics program in Oakland City government. This letter communicates the PEC's recommendations for a comprehensive ethics program, with an emphasis on two priority areas: 1) a local ethics ordinance, and 2) an additional PEC staff position to support an ethics prevention and enforcement program.

To provide some context, the Public Ethics Commission has devoted attention this past year to building the Commission's capacity: assessing staffing needs, prioritizing activities to achieve the most effective outcomes with limited resources, evaluating the Commission's jurisdiction, and identifying gaps in the law and the need for new or amended ordinances. At the PEC's March 2013 retreat, Commissioners discussed the need for enhanced authority on campaign finance, transparency, and ethics issues while brainstorming ways to use the Commission's existing platform to achieve desired outcomes in the area of enforcement, prevention, and collaboration. One of these outcomes was the PEC achieving 100% compliance by local elected officials with state-ethics training requirements and publicly posting the compliance list on the Commission's website in May 2013. Continuing the dialogue around ethics enforcement, the Commission hosted the public meeting in July to outline priority areas that must be addressed in order to create an effective ethics program in Oakland City government.

Commission Created for Fairness, Openness, Honesty, and Integrity

The Public Ethics Commission was created by City Charter in 1996 to ensure compliance with City laws and policies seeking *fairness, openness, honesty, and integrity* in City government. While the Charter sets forth this broad mandate, the Commission's actual authority to take action is dictated by City ordinance, such as the Oakland Campaign Reform Act and the Oakland Sunshine Ordinance. Contrary to our Commission's name, there is no ethics-related City ordinance that gives the PEC the authority to act upon ethics-related violations such as voting when one has a conflict of interest, using public resources for private or campaign purposes, or

accepting inappropriate gifts. Instead, as it relates to ethics, the PEC is authorized only to conduct trainings and develop educational materials, issue advice and formal written opinions with the assistance of the City Attorney's office, and recommend changes to local laws to the City Council.

While training and advice are key elements of an ethics compliance program, they represent only a few of the tools that can be deployed in an ethics program toolbox. After all, ethics in government is not about merely adopting a Code of Ethics and imposing penalties for violation of the code; rather, government ethics is about limiting the ways in which *improper influence* can weave its way through our institution to *weaken the effectiveness of the organization* and *weaken the public's trust in our service*.¹ We believe that limiting improper influence requires a comprehensive approach that appropriately blends prevention, collaboration and enforcement by an ethics commission with the capacity – authority, resources, and independence – to act in each of these three areas.

PEC has no Authority to Enforce Ethics Laws

Oakland has no local ethics ordinance. In order to investigate and enforce ethics laws, the PEC must be given the specific authority under a local ordinance to investigate and enforce violations of the local law. Generally, state laws and entities govern ethics behavior. The PEC may develop trainings and publications to guide ethical conduct but has no authority to enforce the state laws. These laws include rules prohibiting the following:

- Use of public resources for private or political purposes
- Conflicts of interest in decision-making
- Leaving public office to work for a company doing business with the City within a restricted post-employment time period (“Revolving door” rules)
- Bias, Nepotism, Cronyism
- Serving in two incompatible positions
- Bribery
- Embezzlement
- Preventing or inhibiting competitive bidding on contracts

By way of comparison, other cities have adopted a local ethics ordinance that consolidates the patchwork of state and common laws locally, facilitating local enforcement of the law and making it easier for staff and public officials to understand the rules. In California, the three other established ethics commissions – San Francisco, Los Angeles, and San Diego – each are charged with enforcement of their respective city's ethics ordinance, with the ability to issue administrative fines of up to \$5,000 per violation.

¹ Lessig, Lawrence. Director. Edmond J. Safra Center for Ethics. Harvard University. Comments made during the launch of the Research Lab on Institutional Corruption, October 8, 2009.

An ethics ordinance in Oakland would locally codify state laws and give the PEC the authority to enforce them through a multi-tiered system of penalties that could include some or all of the following: advisory letters, warning letters, remedial action, compensatory action, debarment (prohibition from contracting), administrative fine, public censure, or disciplinary action.

With Authority Must Come Resources

While the PEC welcomes the authority to enforce ethics violations, as a practical matter, the Commission would be limited in its ability to act on ethics issues without additional staffing. In December 2012, the PEC conducted a comprehensive assessment of staffing needed to implement existing local campaign finance and transparency provisions. Attached is a spreadsheet that outlines the PEC's current duties per City Charter and related ordinances, showing what can and cannot be accomplished within the Commission's resources as of December 2012. (Attachment A) Also attached is a proposed organizational chart that identifies how the duties in the staffing assessment would be distributed among potential staff positions, as well as the PEC's Annual Report for 2012 to provide an overall picture of the Commission's recent work. (Attachments B and C) The City Council in June 2013 authorized an additional Program Analyst I position, which was filled as of September 2, 2013. Going forward, this will help accomplish roughly one-quarter more of what was listed in the staffing assessment from December.

Along with the adoption of an ethics ordinance, the Commission will need one additional full-time staff position to implement an ethics program that effectively incorporates outreach, training, advice, and enforcement. At this time, what is needed most is a staff attorney to carry a full-time load of legal research, analysis, and immediate advice on ethics as well as campaign finance and transparency laws.

Commission Independence a Core Issue

A discussion of authority and resources is incomplete without also dealing with the issue of Commission independence. Leaders in the municipal ethics community agree that a city ethics commission must be independent, with Commissioners, Commission staff, and legal assistance serving only the Commission and no other City official, and with a budget that is not under the direct control of City officials. This is because, in most cases, the subjects of a potential ethics commission investigation are City officials or City employees. If such officials have control over the commission's staffing, budget, or legal advice, this creates an inherent structural conflict of interest, which diminishes the Commission's effectiveness as well as the public's perception of the fairness and neutrality of the process.

As the City and the City Council move forward in a dialogue about the PEC's authority and resources, we believe it is essential to also evaluate the structure of the Commission to ensure that it has all of the elements for an effective, neutral, and independently accountable oversight agency.

Moving Forward

In order to create an effective ethics program, the Commission urges the City Council to enact an ethics ordinance and provide resources to support the ethics program, including creation of a staff attorney position. We are committed to this issue and in the coming months intend to work with the Council to pursue these goals. Only with increased independence and effectiveness can the Commission fulfill its mandate to promote and protect government integrity in Oakland.

Sincerely,



Lloyd Farnham

Public Ethics Commission Chairman

On behalf of the Commission

(This letter was approved by the Public Ethics Commission at its meeting on September 3, 2013.)

Attachments:

- A. PEC Staffing Assessment
- B. Proposed PEC Organizational Chart
- C. 2012 PEC Annual Report

Public Ethics Commission Pending Complaints

Date Rec'd	Case #	Complainant	Respondents	Date of Alleged Violation	Alleged Violation	Status	Priority*
10/29/2013	13-09	Howard Matis/PEC-Initiated	CFROG Citizens For Responsible Oakland Government (Madeline Hovland)	October 2013	Alleges improper placement of a flyer in a mailbox and lack of identification of who paid for the flyer. PEC staff inquired and assisted the respondent in contacting the FPPC and filing campaign forms. PEC staff now is investigating whether respondent is in violation of the Oakland Campaign Reform Act.	Staff is investigating	H/M 3
9/11/2013	13-08	Rashidah Grinage	Mayor Jean Quan City Administrator Deanna Santana City Attorney Barbara Parker	Ongoing	Alleges a violation of the Ralph M. Brown Act and Oakland Sunshine Ordinance by holding private meetings to "re-legislate through labor negotiations what was public policy decided in Open Session under the Ralph M. Brown Act." (Related to decisions being made about whether to place intake positions within the Oakland Police Department or the Citizens' Police Review Board.)	Staff is reviewing	H/L 4
8/1/2013	13-6	Miguel Vargas	City Council	July 30, 2013	Alleges a violation of the Ralph M. Brown Act by the City Council in structuring the agenda to limit public comment.	Staff is reviewing	M/S 3
7/23/2013	13-5	John Klein	Office of the Mayor	June 25, 2013 to present	Alleges a violation of the California Public Records Act by the Office of the Mayor in not responding to a public records request.	Staff is investigating	H/S 2
7/15/2013	13-4	Retired Oakland Police Officers Association	Police & Fire Retirement System Board	6/19/2013	Alleges a violation of the Oakland Sunshine Ordinance and the Ralph M. Brown Act by holding a closed session meeting on June 19, 2013.	Staff is investigating	H/M 3
6/10/2013	13-3	Ralph Kanz	City Council Members: Brooks, Reid, Gallo, Kalb & Gibson-McElhaneey.	6/10/2013	Alleges a violation of the Oakland Sunshine Ordinance and the Ralph M. Brown Act by five Councilmembers meeting to agree to hold a special meeting on June 13, 2013.	Staff is investigating	M/S 3

* Priority code is based on a dual determination: 1) level of priority (**H**igh, **M**edium or **L**ow, based on criteria such as public interest, complainant interest, timing of complaint, statute of limitations, and impact of Commission decision), and 2) amount of staff time likely needed (**S**mall, **M**edium, or **L**arge amount of time).

Date Rec'd	Case #	Complainant	Respondents	Date of Alleged Violation	Alleged Violation	Status	Priority*
2/8/2013	13-2	Marleen Sacks	City Attorney's Office	1/24/2013	Alleges a violation of the California Public Records Act and Oakland's Sunshine Ordinance.	Staff is investigating	H/M 3
11/1/12	12-13	Judith Cox and Pamela Drake	Ignacio De La Fuente	9/28/2012	Alleges respondent violated Oakland's Campaign Reform Act by accepting campaign contributions in violation of the \$700 contribution limit.	Staff is reviewing	H/M 3
11/1/12	12-12	Okhoo and Ernest Hanes	Mitch Thomson (City Arborist, Tree Section, Public Works Agency) and Camille Rodgers (Vegetation Management Inspector - Oakland Fire Department)	3/20/2009 - 3/29/2012	Alleges respondents abused their City authority and misused public funds.	Staff is reviewing	H/M 3
10/18/12	12-11	Scott Alonso	Ignacio De La Fuente	July 26, 2012	Alleges respondent used his Councilman elected position and City resources for a campaign press conference.	Staff is reviewing	H/S 2
4/26/12	12-04	City Auditor/ Anonymous	City Council Member Ignacio De La Fuente		Alleges respondent failed to report \$37,500 in payments from a campaign group tied to a lobbyist for a group competing for the Coliseum mgmt contract (alleges failure to report payment and a COI issue)	Staff is reviewing	H/L 4
4/4/12	12-03	City Auditor/ Anonymous	Downtown Oakland Association and Lake Merritt/Uptown District Assoc.	Dec 2009 and annually thereafter	Alleges respondents failed to provide adequate public notice about discussions and decisions related to the payment of "holiday bonuses," adds that discussion of bonuses was never put on open session agenda	Staff is reviewing	M/M 4
8/23/11	11-03	City Auditor/ Anonymous	City Council Member Ignacio De La Fuente	June 2011	Complaint expresses concerns about the source of concert tickets allegedly in the possession of respondent	Staff is reviewing	H/L 4

Date Rec'd	Case #	Complainant	Respondents	Date of Alleged Violation	Alleged Violation	Status	Priority*
4-4-11	11-01	PEC initiated	ABC Security and/or Ana Chretien; Marina Security and/or Sam Tadesse	Various; approx. betw 3/1/10/7/10 and 7/27/10	Complaint alleges two contractors made impermissible campaign contributions to candidates in the Nov 2010 election (OCRA; §3.12.140)	Staff is investigating	H/L 4
11-1-10	10-28	Ralph Kanz	Ala. Demo. Central Comm.; OakPAC	October 29, 2010	OCRA; §3.12.230 – Alleges 1) failure to include written disclosure required by OCRA and 2) failure to file late contribution and independent expenditure reports	Staff is investigating	H/M 3
10-13-10	10-26	Ralph Kanz	Jean Quan Floyd Huen	June 30, 2010 and ongoing	OCRA; §3.12.050; 3.12.090 – Alleges failure to report and include information regarding respondent's loans to own campaign	Staff is investigating	H/M 3
10-13-10	10-25	Ralph Kanz	Don Perata	June 30, 2010 and ongoing	OCRA; §3.12.090(A)(D) – Alleges campaign was given extension of credit of over \$1500 for more than 90 days	Staff is investigating	H/M 3
9/14/10	10-21	Jean Quan	Don Perata, Paul Kinney; California Correctional Peace Officers Association; Ronald T. Dreisback; T. Gary Rogers; Ed DeSilva; Richard Lee	Ongoing	OCRA violations – Alleges respondent campaign exceeded the voluntary expenditure limit during the November 2010 election	Staff is investigating	H/L 4
3/23/10	10-07	Sanjiv Handa	Victor Uno, Joseph Haraburda, Scott Peterson, Sharon Cornu, Barry Luboviski, Phil Tagami	January 1, 2007 to present	Lobbyist Registration Act – Alleges respondents failed to register as lobbyists	Staff is investigating	H/L 4
3/3/10	10-05	David Mix	Oakland City Council	3/2/10	Oakland Sunshine Ordinance – Alleges City Council Rules Committee failed to make an “urgency finding” to schedule a decision (per Section 2.20.080)	Staff was directed to explore settlement in lieu of hearing.	M/M 4

Date Rec'd	Case #	Complainant	Respondents	Date of Alleged Violation	Alleged Violation	Status	Priority*
09/16/09	09-12	Marleen Sacks	Office of the City Attorney (Mark Morodomi)	ongoing	Sunshine Ordinance; Public Records Act – Alleges failure to provide multiple public records upon request	Awaiting hearing re: Records Management Policy	M/M 5
2/7/09	09-03	John Klein	City Council President Jane Brunner	February 3, 2009	Sunshine Ordinance -- Allocation of speaker time – Alleges City Council 15-minute total time limit on Open Forum comments is inconsistent with the Sunshine Ordinance, which authorizes 2 minutes per person	Staff is investigating	M/M 4