

EXECUTIVE ORDER NO. 2019-01

**TO: ALL DEPARTMENT DIRECTORS, AGENCY HEADS, BOARDS,
COMMISSIONS, CITY COUNCIL MEMBERS, AND THE CITY CLERK**

SUBJECT: CITY OF DETROIT RECORDS MANAGEMENT POLICY

DATE: July 3, 2019

Pursuant to the powers vested in me by the 1963 Michigan Constitution and the 2012 Detroit City Charter, I, Michael E. Duggan, Mayor of the City of Detroit, do hereby establish a Records Management Policy for the City of Detroit to address the retention and disposal of City records.

Proper management of the public records—securing, retention, retrieval, disposal—is vital for effective and efficient government operations. It is necessary to have proper records management protocols in place for the City’s own use of its records, as well as to comply with provisions of law, such as the Michigan Freedom of Information Act (MCL 15.231 *et seq.*) (FOIA). (See Exhibit A for definition of public records and applicable laws.) Accordingly, this Records Management Policy (Policy) shall apply to all employees, appointees, agents, independent contractors, and volunteers of the City of Detroit.

The Policy consists of the following key elements:

Coordination through Chief Information Officer

The Chief Information Officer (CIO) through the Department of Innovation and Technology (DoIT) will coordinate the implementation of this Policy through education and outreach including a process to notify and train City employees and officials of City records management policies. The CIO, in conjunction with the Corporation Counsel, shall establish appropriate rules and protocols to implement this Policy. Ongoing training sessions will also be coordinated with the State of Michigan Records Management Services.

Records Liaison

The Director or Chairperson of every City Department, Agency, Board or Commission (DABC) shall designate an individual to serve as Records Liaison (RL) and another individual to serve as Alternate Records Liaison (ARL) by providing the names, titles and contact information for those persons to the CIO. In the absence of a formal designation of the individuals to serve in this capacity, the Director or Chairperson is the RL and the Deputy Director or Vice-Chairperson is the ARL. The RL shall be responsible for the compilation, maintenance, retention and the destruction of the DABC’s records. Each RL will coordinate with the Law Department in establishing protocols for responding to all third-party records-related requests including FOIA requests.

Retention and Disposal Schedules

The State of Michigan has issued general retention and disposal schedules (**General Schedules**) for use by local units of government to identify how long records must be kept, when destruction is appropriate, and when certain records can be sent to the Detroit Public Library or Archives of Michigan for permanent preservation. The General Schedules may be supplemented by approved specific schedules (**Agency-Specific Schedules**) for circumstances or records not adequately covered by General Schedules. The Law Department and DoIT will compile the General and Agency-Specific Schedules in effect and distribute them to the RL and ARL for each DABC. Each RL and DABC shall review the schedules in light of the records created, received, and maintained by that DABC. If a DABC creates, receives, or maintains records not covered by a General Schedule or current Agency-Specific Schedule, the RL in conjunction with DoIT and the Law Department shall create or amend an Agency-Specific Schedule to address the particular needs of that DABC. New or amended Agency-Specific Schedules must be approved by the CIO and the State of Michigan.

Citywide Schedule for Retention and Disposal of General or Routine Correspondence or Memoranda

The City of Detroit will have a single standard that applies to all departments for the retention of general routine correspondence or memoranda. That standard shall cover letters, correspondence, and other memoranda pertaining to city business, and all emails pertaining to city business, regardless whether those emails were sent or received at a City of Detroit email address or another email address.

Emails that contain general routine correspondence or memoranda related to city business shall be retained for a minimum period of two years in all city departments. Correspondence or other memoranda related to city business sent through U.S. Mail or other courier services shall be retained for a period of two years in all city departments.

If the correspondence contains a record required by a specific record retention schedule to be retained longer than a period of two years, the correspondence must be retained for the period of the longest applicable record retention period.

Correspondence or memoranda that establish city policies must be kept permanently.

“Correspondence or memoranda” does not include non-record materials, as defined in Exhibit B.

This standard is intended to adhere, at a minimum, to all General Schedules or Agency-Specific Schedules regarding the retention of general or routine correspondence and memoranda.

Retention and Disposal of Records

Records cannot be destroyed unless their disposal is authorized by an approved General or Agency-Specific Schedule. (Not all documents are records that must be retained. See Exhibit B.)

The Policy of the City of Detroit is to maintain records necessary or useful for the conduct of the City's functions and to dispose of other records in accordance with the General and Agency-Specific Schedules in effect. In general, this means that records should be disposed of when a General or Agency-Specific Schedule allows for disposition. Retention for longer than the minimum period is authorized if the DABC has reason to believe that a record may be required beyond the minimum retention period for the efficient operation of the DABC or other City DABCs. Retention is *required*, even if otherwise authorized by a schedule, if a FOIA request has been received, or if an investigation or litigation is imminent or has commenced. In such events, records may not be disposed of until conclusion of the investigation, litigation, or FOIA request.

Adherence to this Records Management Policy

Each individual who creates, sends, or receives records in the performance of his or her official functions is responsible for retaining those records in accordance with this Policy. Failure to adhere to this Policy may result in applicable discipline, up to and including discharge from employment, termination of the contract, termination of the volunteer relationship, or expulsion.

Controlling Effect of this Order; Effective Date

This Records Management Policy will ensure that the records of the City of Detroit are retained and disposed of in a responsible manner in accordance with applicable law. To the extent this Order conflicts with any other Order pertaining to records management, this Executive Order will control. This Executive Order supersedes Executive Order No. 2015-04, dated August 25, 2015, and this Order is effective as of this date.



Michael E. Duggan
Mayor

EXHIBIT A

Laws Applicable to Public Records

The Michigan Freedom of Information Act (FOIA) (Public Act 442 of 1976, as amended, MCL 15.231 *et seq.*), defines public records as recorded information “prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, from the time it is created.”

In addition, two other laws broadly define local government public records and provide that those records belong to the people of Michigan:

- A. Section 5 of the Michigan Historical Commission Act (MCL 399.5) provides that all records required to be kept by local public officers in the discharge of their duties, records required to be filed in local public offices, and records which represent memorials of transactions of local public officers, are considered to be property of this state and may not be disposed of, mutilated, or destroyed except as provided by law.
- B. Section 491 of the Michigan Penal Code (MCL 750.491) declares that all official books, papers, and records created by (or received in) any office or agency of the political subdivisions of the state of Michigan are considered public property, belonging to the people of the state, and shall be disposed of only in accordance with MCL 399.5.

Further, under MCL 750.491, the removal, mutilation, or destruction of public records may result in civil and criminal liability, up to and including a penalty of not more than two years in state prison or a fine of not more than \$1,000.

EXHIBIT B

**State of Michigan
 Department of Technology, Management & Budget - Records Management Services
 Records Retention and Disposal Schedule**

General Schedule #1: Non-record Materials

Item Number	Series Title	Agency Retention	Total Retention	State Administrative Board Approval Date
GS1	- <u>Non-record Materials</u>	ACT	ACT	

Non-record materials are recorded information that are in the possession of an agency, but are not needed to document the performance of an official function. An agency's disposition practices needs to include managing non-record materials, because their volume may exceed that of records that do document official functions.

Examples of non-records may include:

- Draft documents that are replaced by new or final versions.
- Drafts that are not needed to document the development of the final record. Drafts that are not required to be retained by an agency-specific schedule.
- Duplicate copies of a document that are retained for convenience of reference.
- Information that does not document official activities.
- Letters of transmittal (including routing slips) that do not add any information to the transmitted material.
- Notes and recordings that have been transcribed into another format for record retention.
- Publications that are received from outside sources that are retained for reference purposes, such as newsletters, brochures, catalogs, books, professional development materials, etc.
- Mass mailings, notices, flyers, etc. that are received for informational purposes.
- Advertisements, spam and junk mail.
- Tracking documents or tools that are used to ensure that all steps in a business process take place, but are not the official documentation of the action or activity.
- Research and reference materials that are collected from outside sources, but are not needed to document how the final decision is made.

ACT = Non-record materials can be disposed of when they are no longer needed for reference purposes.

ACT = Active
