



CITY RECORDS RETENTION: UNDERSTANDING THE LAW

JUSTIN RUEN — ASSOCIATION OF IDAHO CITIES

WHAT WE WILL COVER

- **Background on city records retention.**
- **The changes brought by House Bill 443.**
- **The basics of Idaho's city records retention law.**
- **Process for destroying records.**
- **Preserving and managing records on photographic and digital media.**
- **What are historical records?**
- **Update on status of State Archives.**
- **Next steps.**

BACKGROUND ON CITY RECORDS RETENTION

- In 2004-05, ICCTFOA had a Records Retention Task Force chaired by Boise City Clerk Annette Mooney that examined the subject in depth. Two important things came out of that effort:
 - The passage of House Bill 48, which updated the city records retention law and required each city to adopt a records retention schedule defining how long various types of records would be kept.
 - The ICCTFOA Records Management Manual, completed in 2006, which included information on best practices for records retention, as well as a model retention schedule that served as a starting point for most city retention schedules.

CHANGING RECORDS LANDSCAPE

- In the decade since the passage of HB 48, records management changed substantially and we began to see areas in the law that needed to be addressed.
 - Most records now born digital, but permanent records were required to be retained in paper form.
 - Commercial building plans were required to be kept for the life of the building under the Building Code and thus were permanent records, but keeping physical copies of these took up considerable storage space.
 - No definition for historical records to provide guidance to records custodians as to records that need to be kept in original paper form forever.
 - State Archives was required to review and approve requests for destruction of semipermanent records, when they are generally only interested in taking permanent records of historical significance.

DRAFTING & PASSAGE OF HB 443

- To address the shortcomings in the city record retention law, AIC drafted legislation in January 2016.
- Collaborative effort involving Meridian Deputy City Attorney Emily Kane, AIC Counsel Jerry Mason & Nancy Stricklin, and myself.
- The Idaho State Historical Society was involved in drafting the language and supported the bill.
- House Bill 443 passed the House and Senate with only 1 “no” vote and was signed into law by Governor Otter.
- Thanks to those who contacted legislators to support the bill!
- The bill took effect July 1, 2016.

SUMMARY OF HOUSE BILL 443

- Provides a definition for historical records and requires such records to be retained in perpetuity in paper form by the city or be transferred to the State Archives.
- Repeals Idaho Code 50-909 and folds the provisions of that section concerning retention of records using nonpaper media into Idaho Code 50-907.
- Cities are authorized to retain permanent records using photographic or digital media, and to destroy paper originals of non-historical permanent records preserved on photographic or digital media following notice to the Idaho State Historical Society.

SUMMARY OF HOUSE BILL 443, cont.

- Cities are now only required to provide notice to the State Historical Society for destruction of non-historical permanent records preserved on nonpaper media.
- Cities no longer have to provide notice to Historical Society for destruction of semipermanent records.
- Provisions concerning destruction of records that have met their required retention period match the current law, except for language clarifying that historical records cannot be destroyed.



THE BASICS OF IDAHO'S CITY RECORD RETENTION LAW

IDAHO CODE 50-907: CITY RECORDS RETENTION LAW

- Idaho Code 50-907 is the state law that addresses city records retention.
 - Establishes classifications for city records:
 - Permanent,
 - Semipermanent, and
 - Temporary.
 - Defines historical records.
 - Requires every city to adopt by resolution a records retention schedule.
 - Permits digital or photographic retention of city records.
 - Provides the process for destruction of records.

PERMANENT RECORDS

- Permanent records must be kept forever, or may be transferred to State Archives upon council resolution.
- Permanent records include:
 - (a) Adopted meeting minutes of the city council, city boards and commissions;
 - (b) Ordinances and resolutions;
 - (c) Building plans and specifications for commercial projects and government buildings;
 - (d) Fiscal year-end financial reports;
 - (e) Records affecting the title to real property or liens thereon;
 - (f) Cemetery records of lot ownership, headstone inscriptions, interment, exhumation and removal records, and cemetery maps, plot plans and surveys;
 - (g) Poll books, excluding optional duplicate poll books used to record that the elector has voted, tally books, sample ballots, campaign finance reports, declarations of candidacy, declarations of intent, and notices of election (COUNTY KEEPS THE RECORDS THEY CREATE IN CONDUCTING CITY ELECTIONS—CITIES KEEP NOMINATING FORMS & CAMPAIGN FINANCE REPORTS); and
 - (h) Other documents or records designated as permanent in a city's records retention schedule.

SEMIPERMANENT RECORDS

- Semipermanent records must be kept at least five years after the date of issuance or completion of the matter contained within the record.
- Semipermanent records include:
 - (a) Claims, canceled checks, warrants, duplicate warrants, purchase orders, vouchers, duplicate receipts, utility and other financial records;
 - (b) Contracts;
 - (c) Building applications for commercial projects and government buildings;
 - (d) License applications;
 - (e) Departmental reports;
 - (f) Bonds and coupons; and
 - (g) Other documents or records designated as semipermanent in a city's records retention schedule.

TEMPORARY RECORDS

- Temporary records must be kept at least two years.
- Temporary financial records must be kept at least two years **and until the city's audit is completed.**
- Temporary records include:
 - (a) Building applications, plans, and specifications for noncommercial and nongovernment projects after the structure or project receives final inspection and approval;
 - (b) Cash receipts subject to audit;
 - (c) Election ballots and duplicate poll books (COUNTY KEEPS THE RECORDS THEY CREATE IN THE COURSE OF CONDUCTING CITY ELECTIONS); and
 - (d) Other documents or records designated as temporary in a city's records retention schedule.

HISTORICAL RECORDS

- HB 443 added a definition of historical records to I.C. 50-907:

"Historical records" shall consist of records which, due to age or cultural significance, are themselves artifacts of historical value. Historical records have enduring value based on the administrative, legal, fiscal, evidential or historical information they contain.

Historical records shall be retained by the city in perpetuity or may be transferred to the Idaho state historical society's permanent records repository pursuant to subsections 8. and 9. of section 67-4126, Idaho Code, upon resolution of the city council.

- How do I know what's historical?
 - Contact Idaho State Archives and ask for assistance.
 - Contact local historical preservation committee for advice.

RECORDS RETENTION SCHEDULE REQUIRED

- Every city must adopt, by resolution, a records retention schedule listing the various types of city records and the retention period for each type of record.
- A model records retention schedule is provided in the ICCTFOA Records Management Manual, which is currently in the process of being updated.
- Check and make sure your city has a records retention schedule.
- Now is a good time to have the schedule reviewed by your department heads and city attorney, and updated to reflect changes in the law.

DIGITAL & PHOTOGRAPHIC RETENTION

- Cities are permitted to reproduce, retain and manage records in a photographic, digital or other nonpaper medium.
- The medium in which a document is retained must accurately reproduce the record in paper form over the entire life of the record and must prevent unauthorized alteration of the document.
- Photographic media—microfilm and microfiche—must meet quality standards of American National Standards Institute.
- Digital media must reproduce the record on paper at a resolution of at least 200 DPI (dots per inch).

DESTRUCTION OF PAPER ORIGINALS—SEMIPERMANENT & TEMPORARY RECORDS

- When a semipermanent or temporary record is retained in a photographic or digital medium, the paper original may be disposed of immediately.
- At that point, the record preserved on digital or photographic media becomes the official record and the provisions of state law and local record retention policies apply to the digital or photographic record.

DESTRUCTION OF PAPER ORIGINALS—PERMANENT RECORDS

- Paper originals of *nonhistorical* permanent records may be destroyed after being preserved on photographic or digital media.
- Prior to destruction, the city clerk must provide written notice (email or snail mail), including a detailed list of the documents proposed for destruction to the Idaho State Historical Society.
- The Historical Society has up to 30 days after receipt of the notice to review the list and respond in writing (email or snail mail) to the city clerk identifying any documents that will be requested to be transferred from the city to the State Archives.
- Any documents that will not be transferred to the State Archives may be destroyed.
- If the city clerk receives no written response within 30 days after the notice was received by the Historical Society, then the records proposed for destruction may be destroyed.
- The record preserved on digital or photographic media becomes the official record.
- Historical permanent records may be preserved on photographic or digital media, **but cannot be destroyed**—may be transferred to State Archives.

REQUIREMENTS FOR DIGITAL OR PHOTOGRAPHIC RETENTION

- City Clerk must keep any equipment required to display the record and make copies of the record for as long as any records preserved on photographic or digital media are retained.
- Must keep duplicates of all records preserved using digital or photographic media in a fire-resistant vault or protected off-site storage facility.

PROCESS FOR DESTRUCTION OF RECORDS NOT PRESERVED ON DIGITAL OR PHOTOGRAPHIC MEDIA

- Permanent Records: Cannot destroy paper originals unless preserved on photographic or digital media.
- Historical Records: Cannot be destroyed, must keep forever in paper form—may transfer to State Archives.
- Semipermanent & Temporary Records: Follow this process.
 - Draft resolution authorizing destruction of records, with a detailed list showing the types of records and date ranges for the records proposed for destruction.
 - City Attorney must review resolution and list, and approve moving forward with destruction.
 - Council must approve destruction resolution.
 - Clerk oversees destruction process.

STATE ARCHIVES UPDATE

- After the Archives was constructed they were eager to take records and took some records that probably were not a good fit.
 - The Archives does not take active records, meaning records that are accessed once per month or more for official government agency business.
 - The Archives also wants records that have significant value in terms of historical research. Some permanent records—like commercial building plans—were taken by the archives and then given back to cities because these records don't have significant historical value and take up a lot of space.
- The Archives is currently reviewing all its collections to ensure they meet the criteria outlined above.
- If your city has sent lots of commercial building plans to the archives, you will probably get them back.
- The archives is currently able to accept high value permanent records from cities.

NEXT STEPS

- We are revising and updating the ICCTFOA Records Management Manual.
- Upcoming training on records retention, electronic records management, archival best practices, etc., including sessions at the ICCTFOA Institute.

RESOURCES

- Justin Ruen, Senior Policy Analyst, AIC—jruen@idahocities.org
- David Matte, State Archivist—David.Matte@ishs.idaho.gov
- ICCTFOA Records Management Manual & Model Retention Schedule