

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 88

BY LOCAL GOVERNMENT COMMITTEE

AN ACT

1 RELATING TO CITIES; AMENDING SECTION 50-907, IDAHO CODE, TO DEFINE TERMS AND
2 TO REVISE PROVISIONS REGARDING THE CLASSIFICATION AND RETENTION OF MU-
3 NICIPAL RECORDS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE
4 DATE.
5

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 50-907, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 50-907. CLASSIFICATION AND RETENTION OF MUNICIPAL RECORDS. (1) "Per-
10 manent records" shall consist of:

11 (a) Adopted meeting minutes of the city council and city boards and com-
12 missions;

13 (b) Ordinances and resolutions;

14 (c) Building plans and specifications for commercial projects and gov-
15 ernment buildings;

16 (d) Fiscal year-end financial reports;

17 (e) Records affecting the title to real property or liens thereon;

18 (f) Cemetery records of lot ownership, headstone inscriptions, inter-
19 ment, exhumation and removal records, and cemetery maps, plot plans and
20 surveys;

21 (g) Poll books, excluding optional duplicate poll books used to record
22 that the elector has voted, tally books, sample ballots, campaign fi-
23 nance reports, declarations of candidacy, declarations of intent, and
24 notices of election; and

25 (h) Other documents or records as may be deemed of permanent nature by
26 the city council.

27 Permanent records shall be retained by the city in perpetuity, or may be
28 transferred to the Idaho state historical society's permanent records
29 repository upon resolution of the city council.

30 (2) "Semipermanent records" shall consist of:

31 (a) Claims, canceled checks, warrants, duplicate warrants, purchase
32 orders, vouchers, duplicate receipts, utility and other financial
33 records;

34 (b) Contracts;

35 (c) Building applications for commercial projects and government
36 buildings;

37 (d) License applications;

38 (e) Departmental reports;

39 (f) Bonds and coupons; and

40 (g) Other documents or records as may be deemed of semipermanent nature
41 by the city council.

1 Semipermanent records shall be kept for not less than five (5) years after
2 the date of issuance or completion of the matter contained within the record.

3 (3) "Temporary records" shall consist of:

4 (a) Building applications, plans, and specifications for noncommer-
5 cial and nongovernment projects after the structure or project receives
6 final inspection and approval;

7 (b) Cash receipts subject to audit;

8 (c) Election ballots and duplicate poll books; and

9 (d) Other documents or records as may be deemed of temporary nature by
10 the city council.

11 Temporary records shall be retained for not less than two (2) years, but in
12 no event shall financial records be destroyed until completion of the city's
13 financial audit as provided in section 67-450B, Idaho Code.

14 (4) "Historical records" shall consist of records which, due to age or
15 cultural significance, are themselves artifacts of historical value. His-
16 torical records have enduring value based on the administrative, legal, fis-
17 cal, evidential or historical information they contain. Historical records
18 shall be retained by the city in perpetuity or may be transferred to the Idaho
19 state historical society's permanent records repository pursuant to subsec-
20 tions 8. and 9. of section 67-4126, Idaho Code, upon resolution of the city
21 council.

22 (5) "Municipal media recordings" means digital files created by a mu-
23 nicipality that contain visual or audible components but does not include a
24 law enforcement media recording as that term is defined in this section.

25 (a) Any municipal media recording associated with a law enforcement re-
26 port or prosecution shall be classified by the city council as a perma-
27 nent record, a semipermanent record, or a temporary record, pursuant to
28 this section.

29 (b) All other municipal media recordings shall be retained for no less
30 than ninety (90) days from the initial recording date and may be au-
31 tomatically deleted or overwritten at any time thereafter, unless a
32 public records request is made within ninety (90) days of the initial
33 recording.

34 (6) "Law enforcement media recordings" means digital files created by a
35 municipal law enforcement agency in the performance of its duties that con-
36 tain visual or audible components.

37 (a) A law enforcement media recording that is associated with a law
38 enforcement report or prosecution within ninety (90) days of initial
39 recording shall be classified by the city council and retained as a per-
40 manent record, semipermanent record, or temporary record, pursuant to
41 this section.

42 (b) All other law enforcement media recordings shall be retained for
43 no less than ninety (90) days from the initial recording date and may
44 be automatically deleted or overwritten at any time thereafter, unless
45 a public records request is made within ninety (90) days of the initial
46 recording.

47 ~~(5)~~ (7) Each city council shall adopt by resolution a records retention
48 schedule, listing the various types of city records and the retention period
49 for each type of record.

1 ~~(6)~~ (8) The city may reproduce, retain and manage records in a photo-
2 graphic, digital or other nonpaper medium. The medium in which a document is
3 retained shall accurately reproduce the record in paper form during the pe-
4 riod for which the document must be retained and shall preclude unauthorized
5 alteration of the document.

6 (a) If the medium chosen for retention is photographic, all film used
7 must meet the quality standards of the American national standards in-
8 stitute (ANSI).

9 (b) If the medium chosen for retention is digital, the medium must pro-
10 vide for reproduction on paper at a resolution of at least two hundred
11 (200) dots per inch.

12 (c) A record retained by the city in any form or medium permitted under
13 this section shall be deemed an original public record for all purposes.
14 A reproduction or copy of such record, certified by the city clerk,
15 shall be deemed to be a transcript or certified copy of the original and
16 shall be admissible before any court or administrative hearing.

17 (d) Once a semipermanent or temporary record is retained in a nonpaper
18 medium as authorized by this section:

19 (i) The original paper document shall be considered a duplicate
20 of the record, and may be summarily disposed of or returned to the
21 sender; and

22 (ii) The provisions of this section related to retention and de-
23 struction of semipermanent and temporary records shall apply only
24 to the record retained in the nonpaper medium.

25 (e) Once a permanent record is retained in a nonpaper medium as autho-
26 rized by this section:

27 (i) The original paper document shall be considered a copy of
28 the record and may be destroyed after compliance with the provi-
29 sions of this subparagraph. Prior to destruction of original pa-
30 per documents, the city clerk shall provide written notice, either
31 by electronic or physical delivery, including a detailed list of
32 the documents proposed for destruction to the Idaho state histor-
33 ical society. The Idaho state historical society shall have thirty
34 (30) days after receipt of the notice to review the list and re-
35 spond in writing, either by electronic or physical delivery, to
36 the city clerk identifying any documents that will be requested to
37 be transferred from the city to the historical society for reten-
38 tion in the permanent records repository. Any documents that will
39 not be transferred for retention in the permanent records reposi-
40 tory may be destroyed. If the city clerk receives no written re-
41 sponse within thirty (30) days after the notice was received by the
42 historical society, then the records proposed for destruction may
43 be destroyed.

44 (ii) The provisions of this section related to retention of perma-
45 nent records shall only apply to the record retained in the nonpa-
46 per medium.

47 (f) Even if a historic record is retained in a nonpaper medium as autho-
48 rized by this section, the original paper record shall also be retained
49 by the city in perpetuity, or it may be transferred to the Idaho state

1 historical society's permanent records repository upon resolution of
2 the city council.

3 (g) Whenever any record is retained in a nonpaper medium, the city clerk
4 shall maintain, throughout the scheduled retention period for such
5 record, suitable equipment for displaying such record at not less than
6 original size and for making copies of the record.

7 (h) Whenever any record is retained in a nonpaper medium, it shall be
8 made in duplicate and the custodian thereof shall place one (1) copy in
9 a fire-resistant vault or off-site storage facility, and he shall re-
10 tain the other copy in his office with suitable equipment for displaying
11 such record at not less than original size and for making copies of the
12 record.

13 ~~(7)~~ (9) Destruction or transfer of records:

14 (a) Permanent records shall not be destroyed, except for paper orig-
15 inals of permanent records retained in a nonpaper medium as provided
16 in subsection ~~(6) (e)~~ (8) (e) of this section. Permanent records may be
17 transferred to the Idaho state historical society's permanent records
18 repository upon resolution of the city council.

19 (b) Semipermanent records may be destroyed only by resolution of the
20 city council and upon the advice of the city attorney, except for paper
21 originals of semipermanent records retained in a nonpaper medium as
22 provided in subsection ~~(6) (d)~~ (8) (d) of this section. Such disposition
23 shall be under the direction and supervision of the city clerk. The
24 resolution ordering destruction shall list in detail records to be de-
25 stroyed.

26 (c) Temporary records may be destroyed only by resolution of the city
27 council and upon the advice of the city attorney, except for paper orig-
28 inals of temporary records retained in a nonpaper medium as provided in
29 subsection ~~(6) (d)~~ (8) (d) of this section. Such disposition shall be un-
30 der the direction and supervision of the city clerk. The resolution or-
31 dering destruction shall list in detail records to be destroyed.

32 (d) Historical records may not be destroyed but may be transferred to
33 the Idaho state historical society's permanent records repository upon
34 resolution of the city council.

35 (e) Municipal media recordings and law enforcement media recordings
36 may be destroyed without a city council resolution.

37 SECTION 2. An emergency existing therefor, which emergency is hereby
38 declared to exist, this act shall be in full force and effect on and after
39 July 1, 2023.