

Title 10 Public Libraries, Archives And Records  
Chapter 7 Public Records  
Part 4 County Public Records Commission

Tenn. Code Ann. § 10-7-404 (2016)

**10-7-404. Destruction of public records authorized -- Conditions prerequisite to destruction -- Records manual.**

(a) The county public records commission has the right to authorize the destruction of any and all public records as defined in § 10-7-403, which are required by law to be retained, when such records have been photocopied, photostated, filmed, microfilmed, or preserved by microphotographic process, as hereinafter provided; provided, that no record required by law to be permanently retained shall be destroyed without a majority vote of the commission. A county officer or judge of a court of record shall be entitled to prevent the destruction of documents, minutes, or records in the office or court, as appropriate. The requirement to photocopy, photostat, film, microfilm, or preserve by microphotographic process prior to destruction in accordance with this section shall not be required of "temporary records" and/or "working papers" as defined in § 10-7-301. The commission does not have the authority to authorize the destruction of any financial or other record which is determined by the comptroller of the treasury to be required for audit purposes until the pertinent audit has been completed. After the audit, disposition will be determined pursuant to procedures developed by the comptroller of the treasury; provided, that the commission shall not have the authority to authorize the destruction of any other record which is otherwise required by law to be retained.

(b) The county technical assistance service, a unit of the Institute for Public Service of the University of Tennessee, is authorized to compile and print manuals, in cooperation with the state library and archives, and the division of records management of the department of state, which shall be used as guides by all county public records commissions, county offices, and judges of courts of record, setting out which records shall or may be destroyed, and those which should not be destroyed, after photographing, photostating, filming, microfilming, or other microphotographic process. Until these manuals are available, the Tennessee county records manual compiled by the Tennessee state library and archives shall be used.

(c) Nothing in § 10-7-401 or § 10-7-511 shall be construed to permit or authorize a county public records commission, a court clerk, a county or municipal official or any other person to destroy or authorize the destruction of any original process in a civil action or criminal proceeding.

(d) (1) In addition to the foregoing procedure for the destruction of original public records, the county public records commission may, upon the request of any office or department head of county government having custody of public records, including court records, authorize the destruction or transfer of original public records which have been reproduced onto computer or removable computer storage media, in any appropriate electronic medium, in accordance with § 10-7-121 and this subsection (d). The secretary of state, as supervisor of the state library and archives, shall promulgate regulations regarding the approved technology, standards and procedures for reproducing public records under this subsection (d), which shall be followed by

county officers, department heads and the county public records commission. Additionally, the county public records commission shall not order the destruction of such original public records which have been reproduced pursuant to this subsection (d) unless the county public records commission has complied with §§ 10-7-413 and 10-7-414. Prior to any order of destruction or transfer of any original public records pursuant to this subsection (d), the officer or department head having custody of such records shall advertise in a newspaper of general circulation in the county, and in counties having a population in excess of two hundred thousand (200,000), according to the 1990 federal census or any subsequent federal census, also in a weekly newspaper, that certain records of the office or department, to be described in the advertisement by title and year, have been electronically stored, reproduced and protected and that the office or department has applied for permission to no longer retain such originals. The authority to destroy original public records granted by this subsection (d) is not exclusive and shall not prevent the destruction of original public records where otherwise authorized.

(2) If the county public records commission fails to act upon a request of a county officer or department head having custody of public records to order the destruction or transfer of original public records after the same have been reproduced in accordance with this subsection (d) within six (6) months of receiving such a request in writing, then the county officer or department head may forward the request to the state library and archives, whereupon the state librarian and archivist, or designated representative, shall have authority to authorize the destruction or transfer of the public records instead of the county public records commission. Failure of the state library and archives to respond to the records disposal request of the county officer or department head within nine (9) months of receiving such a request shall authorize the county officer or department head to destroy the original public records which have been reproduced in accordance with any regulations on this subject promulgated by the secretary of state.