



We have boxes full of files and paperwork taking up space in our hall. Can we dispose of them, or do we have to keep them?

The answer depends on the type of document and whether there is an official record retention period that tells you when the document may be destroyed.

Public records of a township are also the property of the state and can be disposed of or destroyed only in compliance with Michigan law. MCL 399.5 provides that “a record that is required to be kept by a public officer in the discharge of duties imposed by law, that is required to be filed in a public office, or that is a memorial or a transaction of a public officer made in the discharge of a duty, is the property of this state and shall not be disposed of, mutilated or destroyed, except as provided by law.”

In other words, you cannot dispose of any township record unless a law or the office of Records Management Services in the Michigan Department of Technology, Management and Budget says you can.

In practice, the state has simplified the process by adopting “general schedules,” or lists, of common records types that identify when those records may be disposed of or destroyed. Although a township could create its own “special” record retention schedule, it would have to obtain state approval to use it. A township does not need to take any action to adopt or get approval before using a general record retention schedule.

The General Schedule No. 10—Michigan Township Record Retention, approved July 1, 1997, by the State Archives and State Administrative Board, was the original official record retention schedule for township records not covered by another schedule. In recent years, the state, working with MTA and other governmental agencies, has updated and reorganized most of the general record retention schedules. Township records are currently covered by several schedules, including, but not limited to, General Schedules No. 10—Townships, No. 11—Local Law Enforcement, No. 17—Public Libraries, No. 18—Fire/Ambulance Departments, No. 23—Elections Records, No. 25—Township Clerks, No. 26—Local Government Human Resources, and No. 29—Township Treasurers. In all, there are 34 schedules for local governments. Townships may access current record retention schedules and other records management resources on the MTA Members website, under Records Management, or on the State of Michigan’s website at www.michigan.gov/recordsmanagement (click on “Retention and Disposal”).

Although they are called “retention” schedules, the schedules actually identify the earliest time that a record may be destroyed. If a record is not listed on the schedule, it cannot be disposed of or destroyed and must be retained permanently, unless permission is obtained from the State Archives and State Administrative Board. Some records are listed on the schedule as having a permanent retention period, as a reminder to keep them permanently, and not destroy them.

Where a law requires a retention period, it is cited in the schedule. But it’s not always a specific statute that establishes the retention period. For example, many records should be retained for a period in which the township or individuals connected to the records may have some legal liability.

Some documents are defined as “non-record” materials, and do not need to be retained for a specific period. General Schedule No. 1—Non-Record Materials describes types of non-record materials such as duplicates or copies of records, outdated publications, preliminary drafts or notes that do not represent significant basic steps in the preparation of public records.

The township clerk has custody of all the records, books and papers of the township when no other provision is made by law for custody by another official. And the clerk is responsible for “the safekeeping of the records, books and papers of the township in the manner required by law,” including seeing that they are not kept where they will be exposed to an “unusual hazard of fire or theft.”

In addition, a township should comply with the retention schedules to help ensure compliance with the Freedom of Information Act (FOIA) and other statutes that require public access to records.

So it is important for the clerk and any township officials with recordkeeping responsibility to be aware of the retention periods, and for the entire township board to support and appropriately fund recordkeeping methods that protect the safety of the records, but also to organize and maintain them in a system, location and format that allows for easy and timely access to keep them readily available to the public upon request for copies or to inspect, as long as the records exist.

Can we make digital copies of our paper records and throw out the paper ones?

You may make digital copies, but you cannot destroy the original, paper versions until one of the general record retention schedules allows disposal.

Under the Records Reproduction Act, Public Act 116 of 1992, MCL 24.401, et seq. (formerly the Records Media Act), a township or a township official acting in his or her official capacity may reproduce a record by photograph, photocopy, microreproduction, optical media, data transfer, digitization, digital migration, digital imaging, magnetic media, printing, or any other reproduction method approved by Records Management Services in the Department of Technology, Management and Budget.

A certified, non-paper copy of a record made under the act has “the same force and effect as a true paper copy of a record.” A township may scan paper originals to make digital copies of records, such as PDF copies. If certified, the copy is admissible in court, administrative proceedings and elsewhere as evidence in the same manner as an original.

When the act was amended in 2005 to allow this, there was some confusion as to whether a township could scan all of its paper original records into digital formats and then dispose of the paper originals to “go paperless.” But township original records can be disposed of or destroyed only in compliance with a state-approved record retention schedule, and some records, such as minutes, have a permanent retention period.

Also, the officer in whose office the original was filed or recorded must certify a copy produced under the act as true for it to have the same force and effect as the original for all legal purposes.

So, township records may be digitized to allow for more efficient storage and retrieval, but the original paper records must be retained unless, and until, a retention schedule authorizes their destruction.