GENERAL SCHEDULE #36 – Drain and Water Resources Commissioners

This Retention and Disposal Schedule covers records that are commonly found in the offices of drain commissioners and water resources commissioners. The records that are described on the attached pages are deemed necessary (1) for the continued effective operation of Michigan government, (2) to constitute an adequate and proper recording of its activities, and (3) to protect the legal rights of the government of the State of Michigan and of the people. We, the undersigned, believe that this schedule meets the administrative, legal, fiscal and archival requirements of the State of Michigan.

Douglas D. Enos — 12-5-14

Doug Enos, President (Date)
Michigan Association of County Drain Commissioners (MACDC)

1/15/2005

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APPROVED — 2-24-15

State Administrative Board (Date)

GENERAL RETENTION SCHEDULE #36
DRAIN AND WATER RESOURCES COMMISSIONERS

INTRODUCTION

Public Records

The Michigan Freedom of Information Act (FOIA) (MCL 15.231-15.246) 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."

Retention and Disposal Schedules

Michigan law (MCL 399.5 and 750.491) requires that all public records be listed on an approved Retention and Disposal Schedule that identifies the minimum amount of time that records must be kept to satisfy administrative, legal, fiscal and historical needs. Local situations may require retention beyond the periods listed, and nothing prevents an office from retaining records longer than the specified period of time. Schedules also identify when records may be destroyed, and when certain records can be sent to the Archives of Michigan for permanent preservation. *Records cannot be destroyed unless their disposition is authorized by an approved Retention and Disposal Schedule.* All schedules are approved by Records Management Services, the Archives of Michigan and the State Administrative Board. There are two types of schedules that government agencies may use:

- A "general schedule" will cover records that are common to a particular type of government agency, such as an information technology department. General schedules may not address every single record that a particular office may have in its possession. *General schedules do not mandate that any of the records listed on the schedule be created.* However, if they are created in the normal course of business, the schedule establishes a minimum retention period for them.

- Any record that is not covered by a general schedule must be listed on an "agency-specific schedule" that will address records that are unique to a particular government agency. Agency-specific schedules always supersede general schedules. Agency-specific schedules only address the records of the agency named on the schedule, and may not be used by another agency.

Unofficial Documents

General Schedule #1 addresses the retention of "nonrecord" materials. These documents are broadly defined as drafts, duplicates, convenience copies, publications and other materials that do not document agency activities. These materials can be disposed of when they have served their intended purpose. Government agencies need to identify the "office of record" when multiple offices possess copies of the same

record. The "office of record" is responsible for following the retention period that is specified, duplicates do not need to be retained. A more comprehensive definition of "nonrecords" can be found in the approved schedule (available online at http://www.michigan.gov/documents/hal_mhc_rms_GS1_local_110758_7.pdf).

Record Maintenance

Records can exist in a wide variety of formats, including paper, maps, photographs, microfilm, digital images, e-mail messages, databases, etc. The retention periods listed on this general schedule do not specify the format that the record may exist in, because each government agency that adopts this schedule may choose to retain its records using different recording media. Government agencies are responsible for ensuring that all of their records (regardless of format) are properly retained and remain accessible during this entire retention period. All records need to be stored in a secure and stable environment that will protect them from tampering, damage and degradation. Electronic records are dependent upon specific hardware and software to be accessed and used. It is important to understand that the original technology that is used to create electronic records will eventually become obsolete. As a result, government agencies should work with their information technology staff to develop preservation plans for retaining electronic records with long-term (more than 10 years) retention requirements. Various laws (including the Records Reproduction Act, MCL 24.401-24.406) identify acceptable formats for retaining public records; agencies are responsible for understanding and complying with these laws.

Suspending Destruction

Government agencies must immediately cease the destruction of all relevant records (even if destruction is authorized by an approved Retention and Disposal Schedule) if they receive a FOIA request, if they believe that an investigation or litigation is imminent, or if they are notified that an audit, investigation or litigation has commenced. Relevant records may exist in electronic formats (such as e-mail, digital images, word processed documents, databases, backup tapes, etc.). Failure to cease the destruction of relevant records could result in penalties.

Additional Assistance is Available

The State of Michigan, Records Management Services is available to assist government agencies with their questions about record retention and acceptable recording media. Agencies may contact the Records Management Services at (517) 335-9132. Additional information is also available from the Records Management Services' website http://www.michigan.gov/recordsmanagement/, including records management manuals, general schedules, e-mail retention guidelines, microfilming standards and digital imaging standards, etc.

General Retention Schedule #36
Drain and Water Resources Commissioners

Item Number	Series Title and Description	Retention Period
	Establishing and Improving Intercounty and County Drains	
101	These records document establishing and improving county and intercounty drains, and all documents involved in the establishment, construction, and improvement of county and intercounty drains. Files may include: applications to establish a drainage district; orders to establish a drainage district, order of necessity, first and final orders of determinations; petitions; treasurer's certificate; reports; notices; affidavits; proofs of service, mailings, postings; decisions; drainage district maps; permits; soil borings; assessment rolls; minutes; supporting documents, etc.	PERM
102	Attendance sheets created at any meeting or proceeding including, but not limited to Hearings and Notice of Letting/Day of Review	CR + 5
103	Correspondence *ACT = End of Construction*	ACT
104	Hearing Transcript *EVT = End of Section 161 Appeal Period*	EVT
105	Final Construction Plans *SUP = Superseded by As-builts*	SUP
106	Construction Inspection Reports and Contracts *ACT = End of Construction*	ACT + 7
107	Response to Appeal; Order Appointing Board of Review; and Notice to Board of Review *EXP = Expiration of Bond*	EXP
	Development, Issued Permits and Agreements	
201	These records document developments, issued permits, and agreements relating to drains. Files may include: agreements pursuant to section 425 and 433; published rules; development/permit final construction plans/as-builts; final plat (copy); record drawings; easements; supporting documents, etc.	PERM
202	Correspondence *ACT = End of Construction or Project*	ACT
203	Construction Inspection Reports *ACT = End of Construction or Project*	ACT + 7

General Retention Schedule #36
Drain and Water Resources Commissioners

Item Number	Series Title and Description	Retention Period
	Other Proceedings	
301	These records document other drain proceedings. Files may include: Abandonment, Relinquishment, Obstruction, Appointment of Special Drain Commissioners, and Consolidation. These files include: petitions; notices; proofs of service, mailings, publications, and postings; affidavits, releases of easements, statement of drain funds to be furnished to township treasurer; resolutions; reports; court proceedings and documents; orders; drainage district maps; minutes; supporting documents, etc.	PERM
302	Attendance sheets at any meeting or proceeding including, but not limited to Abandonment and Consolidation	CR + 5
303	Construction Inspection Reports *ACT = End of Construction or Project*	ACT + 7
	Non-Petition Maintenance and Assessment	
401	These records document non-petitioned maintenance and assessments of drains. Files may include maintenance resolutions; drain inspections; notices of day of review; proofs of service, mailings, publications, and postings; supporting documents, etc.	PERM
402	Complaint and Response *ACT = Until complaint is resolved*	ACT
403	Maintenance Crew Schedule	CR + 5
404	Contract Documents	CR + 5
405	Assessment Rolls	SUP
	Legal Proceedings	
501	These records document drain and lake legal proceedings about drains. Files include complaint, answer(s), and orders, etc.	PERM
502	Pleadings and Discovery *EVT = End of Litigation*	EVT + 5
	Property Acquisition	
601	These records document all types of property acquisitions. Records may include all deeds, easements; release of right of way; orders of special commissioner; condemnation orders; affidavits; other	PERM

Item Number	Series Title and Description	Retention Period
	agreements affecting real property, etc.	
602	Property Appraisals *EVT = End of Litigation*	EVT + 3
603	Title Searches *ACT = while transaction is pending*	ACT
	Financial	
701	These records document drain financial activities related to bonds and may include: 434 notes; bond issue documentation; IRS reporting forms, etc. *EXP = Expiration of Bond*	EXP
	General Administration	
801	These records document the general administration of Drain Offices. Files may include: magazines and manuals; phone messages; general correspondence; application for grants; photos/digital images; other electronic documents, etc. *ACT = while of reference value*	ACT
802	General FOIA Request and Response *ACT = while responding*	ACT + 1
803	Annual Report	PERM
	County Enforcing Agency for Part 91	
901	These records document soil erosion and sediment control. Files may include plans; applications; permits; inspection reports; correspondence; supporting documents, etc. *ACT = until project is complete*	ACT + 5
	Lake Levels and Lake Improvement Boards	
1001	These documents record the establishment and related proceedings for lake levels and lake improvement boards. Files may include: orders; notices; permits; petitions; resolutions; engineering, dam, and inspection reports; as-builts; affidavits; minutes; proofs of service, mailings, postings, and publications; supporting documents, etc.	PERM
1002	Attendance sheets	CR + 5

General Retention Schedule #36
Drain and Water Resources Commissioners

Item Number	Series Title and Description	Retention Period
1003	Construction Contracts *ACT = End of Construction or Project*	ACT + 7
1004	Assessment Rolls	SUP
1005	Correspondence *ACT = End of Construction or Project*	ACT
1006	Final Construction Plans *SUP = Superseded by As-builts*	SUP
	Chapter 20 and 21 Drains	
1101	These records document establishing and improving chapter 20 and 21 drains, proceedings, development, and construction of county drains. Files may include all types of petitions; notices; affidavits; proof of service, mailing, and posting; bids; awards of contract; decisions; reports; treasure's certificate; drainage district maps; permits; soil borings; resolutions; supporting documents, etc.	PERM
1102	Attendance at any meeting or proceeding	CR + 5
1103	Correspondence *ACT = End of Construction or Project*	ACT
1104	Final Construction Plans *SUP = Superseded by As-builts*	SUP
1105	Inspection Reports *ACT = End of Construction or Project*	ACT + 7
1106	Assessment Rolls	SUP

State of Michigan
Records Management Services

Frequently Asked Questions About General Schedules

Q: What is a public record?

A: The Michigan Freedom of Information Act (FOIA) (MCL 15.231-15.246) 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."

Q: Are all records considered to be "official" records?

A: No. General Schedule #1 addresses the retention of "nonrecord" materials. These documents are broadly defined as drafts, duplicates, convenience copies, publications and other materials that do not document agency activities. These materials can be disposed of when they have served their intended purpose. Government agencies need to identify the "office of record" when multiple offices possess copies of the same record. The "office of record" is responsible for following the retention period that is specified, duplicates do not need to be retained. A more comprehensive definition can be found in the approved schedule (available online at http://www.michigan.gov/documents/hal_mhc_rms_GS1_local_110758_7.pdf).

Q: Are the retention periods that are listed on general schedules minimum amounts of time that a record should be kept?

A: Yes. General schedules authorize, but do not require, public officials to dispose of records after the expiration of the assigned retention period. Local situations may require retention beyond the periods listed, and nothing prevents a government agency from retaining records longer than the specified period of time. If records are kept for less than the amount of time listed, the agency can be penalized for unlawful destruction of records. In addition, if records are kept too long, they can waste valuable storage space, and they can become a liability to the agency if it receives a FOIA request, or if it becomes involved in litigation.

Q: Does my government agency have to follow a general schedule?

A: Records cannot be lawfully destroyed without the authorization of an approved Retention and Disposal Schedule. The purpose of a general schedule is to ensure that all government agencies are following consistent retention practices, and to

prevent individual agencies from having to develop an agency-specific schedule. However, if your government agency does not want to follow an approved general schedule, it would need to get an agency-specific schedule approved. [Note: agency-specific schedules always override a general schedule.] Internal policies do not have the force of law that an approved Retention and Disposal Schedule has.

Q: What is an agency-specific schedule?

A: Agency-specific schedules are Retention and Disposal Schedules that only apply to the agency listed on the document. They are intended to cover records that are unique to that specific agency. Records that are listed on an approved general schedule should not be listed on an agency-specific schedule, unless the agency has a unique situation that justifies a different retention period than the one everyone else is following. The instructions and forms for agency-specific schedules are available online at http://www.michigan.gov/recordsmanagement/.

Q: What should my government agency do if we create a record that is not listed on the general schedule?

A: The general schedule covers records that are common to most government agencies. However, general schedules do not claim to be inclusive of every record that all agencies create. Records that are not listed on general schedules cannot be destroyed without the authorization of an approved agency-specific schedule.

Q: What should my government agency do if we do not create a record that is listed on the general schedule?

A: Nothing. General schedules do not mandate that any of the records listed on the schedule be created. However, if they are created in the normal course of business, the schedule establishes a retention period for them.

Q: What do the codes in the Total Retention column mean?

A: The **retention codes** that appear on the schedule are used to establish how long records are retained by the creating agency before they are destroyed. Retention codes determine how destruction dates will be automatically calculated by Versatile (Versatile is the records management software that is used by Records Management Services to manage the retention of records), and the date upon which the calculation will be based. Definitions of these codes can be found in the Records Management Manual that is available online at http://www.michigan.gov/recordsmanagement/.

Q: What do the numbers in the Total Retention column represent?

A: In addition to the retention code, a period of time, years and/or months, can be used in the calculation of the retention period. Years are expressed as whole numbers, and months are expressed as fractions. For example, the fraction "0/6" would represent 6 months. The retention code plus the period of time results in a mathematical formula that is used to determine a disposal date.

Q: Do the general schedules only cover paper records, or do they cover databases and other electronic records too?

A: Records can exist in a wide variety of formats, including paper, maps, photographs, digital images, e-mail messages, databases, etc. The retention periods listed on the general schedules do not specify the format that the record may exist in, because each government agency that adopts the schedule may choose to retain its records using different recording media. Government agencies are responsible for ensuring that their records, regardless of format, are properly retained and remain accessible during this entire retention period. Various laws (including the Records Reproduction Act) identify acceptable formats for retaining public records; agencies are responsible for understanding and complying with these laws.

Q: Do the general schedules cover e-mail?

A: Yes. Many of the record series that are listed on the general schedules may originate as e-mail. Those e-mail messages need to be retained for the period of time specified by the schedule. For more information about e-mail retention, please check out the online guide at http://www.michigan.gov/recordsmanagement/.

Q: Can records be microfilmed or digitally imaged?

A: Yes. The Records Reproduction Act (MCL 24.401-24.406) regulates the reproduction of public records by Michigan government agencies at all levels. This law requires the Records Management Services to promulgate technical standards to ensure the continued accessibility and usability of records that are microfilmed or digitized throughout their retention period. The standards are also intended to help state and local governments ensure the integrity and authenticity of their records. The Records Management Services administers competitively bid master contracts for microfilming and imaging services. State agencies and local governments are eligible to use these contracts to receive these services. More information is available online at http://www.michigan.gov/recordsmanagement/.

Q: How can I determine which records that are listed on the general schedules contain confidential information that should not be released to the public?

A: Select records series that are listed on the general schedules may be exempt from public disclosure, in accordance with the provisions of state and federal laws. Please consult with your attorney if you need additional information.

Q: Is there an appropriate way to destroy records that contain confidential information?

A: Yes. Some public records contain sensitive or confidential information. These records should not be placed in a regular trash or recycle bin when they are destroyed. It is important that government agencies ensure that these records are destroyed in a manner that prevents the inappropriate release of the information. The State of Michigan administers a master contract with a vendor that complies with the state's requirements for confidential destruction of records. Government agencies that are interested in using this contract should contact the vendor: Rapid Shred, Attention: Scott Dennis, 616-735-2900. Confidential electronic records should be destroyed in accordance with the U.S. Department of Defense "Standard Industrial Security Program Operating Manual" (DoD 5220.22-M).

Q: Who is responsible for ensuring that Retention and Disposal Schedules are followed?

A: The Michigan Penal Code (MCL 750.491) establishes misdemeanor penalties for disposing of records without the authorization of an approved Retention and Disposal Schedule. Government agency directors are responsible for ensuring that relevant staff are aware of the provisions in the schedule and follow them. The Records Management Services does not audit agencies and assess penalties. However, courts may penalize agencies for failing to follow an approved Retention and Disposal Schedule.

Q: What should I do if I have suggestions for revising a general schedule?

A: Contact the Records Management Services at (517) 335-9132.