

Records Management

6.1 Applicability

This records management policy shall apply to all officials, appointees, employees, agents, independent contractors and volunteers of the township. Each individual who creates, sends or receives official records is responsible for retaining those records in accordance with this policy.

6.2 Records Management Responsibilities

The (*clerk, other*) shall be responsible for coordinating all records management procedures and activities for township offices, departments or services. Duties include the:

- Distribution of approved general record retention schedules
- Development, review and approval of township-specific record retention schedules (*optional*)
- Distribution of policies, guidelines and standards published by the State of Michigan, the township and other parties
- Arranging off-site storage facilities for inactive records (*optional*)
- Arranging microfilm and digital imaging services (*optional*)
- Arranging the destruction of confidential records with a vendor (*optional*)
- Coordinating all litigation holds to prevent the destruction of records that are relevant to a Freedom of Information Act request, investigation or litigation

6.3 Responsibility to Enforce

The (*clerk, other*) shall ensure that township officials, appointees and employees are aware of and implement the township's record management policies. They shall ensure that the township has the most updated record retention schedules that cover all records (regardless of form or format) that are created and used by the township.

The (*clerk, other*) shall ensure that the digital files and e-mail (and other records) of former officials, appointees, employees, volunteers and consultants are retained in accordance with approved record retention schedules.

6.4 Separation from Township

Township officials, appointees, employees, volunteers and consultants/contractors shall not take public records with them when they terminate office, employment or contract with the township, and they shall not destroy records that have not yet fulfilled their approved retention period. The (*clerk, other*) is responsible for ensuring that the records, including e-mail and other digital records, of employees who are separating from the township are retained in accordance with the township's record retention policies.

6.5 Failure to Adhere to This Records Management Policy

Failure to adhere to the township's records management policies may result in applicable discipline, up to and including discharge from employment, termination of the contractor status, or termination of the volunteer relationship. Further, the removal, mutilation or destruction of public records may result in civil and criminal liability, up to and including a penalty of not more than two years in state prison or a fine of not more than \$1,000.

6.6 Records Are Maintained and Stored to Ensure Township Compliance with Law

Township officials, appointees, employees, volunteers and consultants/contractors shall create, develop, organize, maintain, retain and store all township records to accommodate public inspection, FOIA compliance, record retention requirements, and minimize the township's exposure to litigation and risk.

The (*clerk, FOIA coordinator, other*) shall develop procedures to accommodate access by the (*clerk, FOIA coordinator, other*) for the purpose of public inspection of records, FOIA requests, and discovery or other litigation-related requests, when:

- Specific records are required by law or township policy to have limited access
- Specific records contain information exempt from disclosure
- Township records are kept or used in home offices

6.7 Record Retention Schedules

All township records shall be retained in accordance with an approved record retention schedule. Records not listed on an approved record retention schedule are considered permanent records and may not be disposed of until a schedule is approved.

6.8 Litigation, Investigations and Freedom of Information Act Requests

The FOIA coordinator shall keep a copy of all written requests for public records on file for no less than one year.

No records that are the subject of litigation, a pending investigation request or a pending FOIA request shall be destroyed until the legal action or activity has ended, even if the records are otherwise scheduled for destruction pursuant to a relevant record retention schedule.

Any individual with knowledge of pending litigation, a pending investigation or a FOIA request shall immediately inform the FOIA coordinator. In consultation with the township attorney, the FOIA coordinator shall direct all relevant individuals to immediately cease disposal of all records relevant to the pending litigation, pending investigation or FOIA request. If the relevant records are in electronic form (including e-mail), the FOIA coordinator shall notify (*information technology personnel or specialists*) for retrieval procedures.

If questions arise as to what records are relevant to a pending litigation, pending investigation, or FOIA request, the FOIA coordinator shall direct the immediate cessation of the disposal of *all* records. The moratorium on the disposal of all records relevant to the pending litigation, pending investigation or FOIA request shall remain in effect for the duration of the litigation or investigation, or until the FOIA request has been fully processed.

Inspection of Records

6.9 Public Inspection of Records

Upon receiving a verbal request to inspect township records, the township shall furnish the requesting person with a reasonable opportunity and reasonable facilities for inspection and examination of its public records.

A person shall be allowed to inspect public records during usual business hours, not less than four hours per day. The public does not have unlimited access to township offices or facilities, and a person may be required to inspect records at a specified counter or table, and in view of township personnel.

Township officials, appointees, staff or consultants/contractors assisting with inspection of public records shall inform any person inspecting records that only pencils, and no pens or ink, may be used to take notes.

In coordination with the official responsible for the records, the FOIA coordinator shall determine on a case-by-case basis when the township will provide copies of original records, to allow for blacking out exempt information, to protect old or delicate original records, or because the original record is a digital file or database not available for public inspection.

The (*clerk, FOIA coordinator, other*) is responsible for identifying if records or information requested by the public is stored in digital files or e-mail, even if the public does not specifically request a digital file or e-mail.

A person cannot remove books, records or files from the place the township has provided for the inspection.

No documents shall be removed from the office of the custodian of those documents without permission of that custodian, except by court order, subpoena or for audit purposes. The official shall be given a receipt listing the records being removed. Documents may be removed from the office of the custodian of those documents with permission of that custodian to accommodate public inspection of those documents.

6.10 Copies May Be Required to Enable Public Inspection of Records

In coordination with the official responsible for the records, the FOIA coordinator will determine (*by policy, on a case-by-case basis, or both*) when the township will provide copies of original records, to allow for blacking out exempt information, to protect old or delicate original records, or because the original record is a digital file or database not available for public inspection.

Optional: A fee will be charged for copies made to enable public inspection of records, according to the township's FOIA policy.

6.11 Record Fees

In all cases, township personnel shall use the most economical means available to make copies of public records, including digital copies of documents or recordings. E-mail may be used to distribute or mail records.

“Actual, incremental cost” means the cost to the township over and above the cost to the township if the request had not been made. Overhead costs shall not be included in an “actual, incremental cost.”

(*Select any, all or none of the following, per the township's individual policy:*)

The township shall charge the actual, incremental copying cost to make a copy subject to a FOIA request for a copy or made to accommodate a request to inspect.

The township shall charge a labor cost to make the copy, (*select one of the following:*)

Option A: which is the hourly wage of the lowest paid township employee capable of making the copy, as determined for each request.

Option B: which is \$ _____. (*Specify the lowest hourly wage paid to a township employee, as a flat hourly wage for all copies*)

Labor costs are charged in (*10-minute, 15-minute, etc.*) increments. The hourly wage used to calculate labor costs includes total compensation and benefits.

Fees for Copying Records or Notices for FOIA or Open Meetings Act Subscriptions: The township shall charge the actual, incremental cost to make the copy.

Optional: Labor costs shall not be charged for a copy made to fulfill a FOIA subscription request because the copy is made at the same time the record is issued.

Mailing Fees: The township shall charge actual postage or shipping costs and the actual cost of the envelope or mailer.

Fees for Separating Exempt From Non-Exempt Information: A fee shall not be charged for the cost to search, examine, review, and delete, separate or redact exempt from non-exempt information unless failure to charge a fee would result in unreasonably high costs to the township because of the nature of the specific request.

The FOIA coordinator shall determine if a fee will be charged under this section.

When the FOIA coordinator determines that a fee will be charged under this section, the FOIA coordinator shall specifically identify the nature of the unreasonably high costs of the specific request on the written response to the FOIA request.

The township shall charge a labor cost to search, examine, review, and delete, separate or redact exempt from non-exempt information, (*select one of the following:*)

Option A: *which is the hourly wage of the lowest paid township employee capable of making the copy, as determined for each request.*

Option B: *which is \$_____. (Specify the lowest hourly wage paid to any township employee, if the board wants to use that as a flat hourly wage for all copies)*

Labor costs are charged in (*10-minute, 15-minute, etc.*) increments. The hourly wage used to calculate labor costs includes total compensation and benefits.

6.12 Waived FOIA Request Costs for Specific Types of Records (*Optional*)

With the exception of costs waived due to indigency, FOIA costs shall be waived only according to this section. Costs cannot be waived on an individual basis. The township shall not charge for copies of (*specify type(s) of records, such as "most recent draft and approved sets of minutes" or "the draft master plan, zoning ordinance, recreation plan," etc.*).

6.13 Costs Waived Due to Indigency of Person Making FOIA Request

A public record search shall be made and a copy of a public record shall be furnished without charge for the first \$20 of the fee for each request to a person who is entitled to information under the FOIA and who submits an affidavit stating that, at the time the request is submitted, the person is either receiving public assistance or is unable to pay the cost because of indigency.

"Indigency" is determined by the township's poverty guidelines annually adopted for property tax poverty exemption applications (or "the federal poverty thresholds annually compiled and published by the Bureau of the Census prior to December 31 of each year").

6.14 Fifty-Percent Good Faith Deposit for Costs Over \$50

If the costs estimated for a specific FOIA request exceed \$50, the person requesting the record(s) shall make a good faith deposit before the township will process the request. The deposit shall not exceed one-half (50%) of the total fee.

6.15 Unpaid FOIA Requests Are Not Considered When Responding to a Subsequent FOIA Request for Different Records

The unpaid balance of a previous FOIA request shall not be deducted from separate or later FOIA requests for different records submitted by the same person. The unpaid balance of a previous FOIA request shall not be deducted from any other fees, taxes, charges or other bills paid to the township by that person.

Digital Files and E-mail Retention

6.16 E-mail Defined

Electronic mail (e-mail) is a means of exchanging messages and documents using telecommunications equipment and computers. A complete e-mail message not only includes the contents of the communication, but also the transactional information (dates and times that messages were sent, received, opened, deleted, etc., as well as aliases and names of members of groups), and any attachments.

6.17 Digital Files and E-mail Messages May Be Public Records

A digital file or e-mail message is a public record if it is 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.

6.18 Digital Files and E-mail Messages Are Public Property

All digital files and e-mail messages that are created, received or stored by the township are the property of the township. They are not the property of the township officials, appointees, employees, volunteers, consultants/contractors, vendors or customers. E-mail accounts are provided to township staff for conducting public business. No one should have an expectation of privacy when using the township's computer resources.

6.19 Digital Files and E-mail Retention and Disposal Schedules

Digital files and e-mail shall be retained according to the applicable record retention schedule for the type of record the digital file or e-mail represents.

Individual employees or consultants are responsible for deleting digital files and e-mail messages in accordance with the appropriate record retention schedule. The (*designated person*) shall ensure that messages deleted in compliance with the appropriate record retention schedule are rendered unrecoverable within (*insert time frame; one week is the suggested maximum*) of deletion.

6.20 Digital Files and E-mail Storage and Maintenance

The township shall retain its digital files and e-mail by (*select from the following procedures, or other procedures as applicable to the township's e-mail and technology systems*):

- Filing the digital file or e-mail in a Document Management System repository where it will be organized and automatically disposed of at the end of its retention period.
- Storing e-mail online in the active e-mail system for its entire retention period. E-mail account holders are encouraged to establish folders for arranging e-mail according to their content, and they are responsible for disposing of e-mail that has met all of its retention requirements.
- Creating online e-mail archives for storing messages that are accessible by the active e-mail system, but are not stored on the active e-mail server. E-mail account holders are encouraged to establish folders for arranging e-mail according to their content, and they are responsible for disposing of e-mail that has met all of its retention requirements.
- Storing digital files or e-mail on hard drives or peripheral drives (information technology staff or other township designees must specify which drive to use; shared servers are recommended). E-mail account holders are encouraged to establish folders for arranging digital files or e-mail according to their content, and they are responsible for disposing of digital files or e-mail that has met all of its retention requirements.
- Printing digital files or e-mail and related transactional information, and filing the paper in a manual filing system.

Record Storage and Maintenance

6.21 Record Storage

Township officials, appointees, employees, volunteers, consultants/contractors and departments shall organize records to promote fast and efficient retrieval of information. Appropriate and cost-effective office equipment, indexes and tools shall be used to maintain records.

The township clerk shall periodically evaluate and make recommendations to the township board on the method(s) to be used to maintain and store records for their minimum retention periods. Records that will be retained for more than 10 years shall be stored in an environment that facilitates the security and stability of the storage media. The township may utilize low-cost storage facilities for inactive records that have not fulfilled their retention requirements.

The (*designated person*) shall work in conjunction with the (*information technology personnel/department/consultant/contractor*) to determine the most cost-effective and reliable method of maintaining digital and electronic records for their full retention period, so technology changes do not render them in accessible and unusable.

When reproducing township records for storage purposes, the township shall comply with the applicable State of Michigan standards and best practices for record reproduction, as authorized by the Records Reproduction Act, MCL 24.401, *et seq.*

Records containing sensitive or confidential information shall be protected against unauthorized access, especially records that are protected by state or federal laws, records containing private information, financial information, background checks, medical information and Social Security numbers. Individuals and offices shall employ appropriate locks, passwords and other devices to protect the privacy of this information.

6.22 Record Disposal

Public records that have reached their minimum retention period, and which are no longer required for the efficient operation of the township, may be disposed of. All township offices shall routinely review all records (regardless of format) to identify those that have fulfilled their retention requirements.

Disposal shall be made by a method that is guaranteed to ensure the privacy of sensitive or confidential information. Records that contain confidential information will be disposed of in a manner that ensures they cannot be reconstructed.

- The township shall destroy sensitive or confidential information by (*describe method, vendor, internal procedures, etc.*).
- The township shall destroy open records by recycling or regular trash disposal.

Some records possess permanent or historical value. These records may be designated for eventual transfer to the Archives of Michigan for permanent preservation. The township shall follow the Archives' procedures for transferring records.

6.23 Disaster Prevention and Recovery

Township records, books and papers shall not be kept where they will be exposed to an unusual hazard of fire or theft or other damage.

In the event of damage to township records, township personnel, at the direction of the (*clerk, other*) shall (*at a minimum—add specific procedures as applicable to township's circumstances*):

- Contact the township's risk manager and insurance agent
- Determine the type of damage to records (fire, smoke, chemical, clean water, dirty water, heat, humidity)
- Determine which records have been damaged
- Determine the types of materials that have been damaged (paper, film/microfiche, computer files, CDs/DVDs, etc.)
- Begin salvage according to applicable State of Michigan standards and best practices for document salvage