

COUNTY RECORDS RETENTION/DISPOSITION SCHEDULE

Approved May,2010

FOR USE BY WISCONSIN COUNTIES

COUNTY RECORDS RETENTION/DISPOSITION SCHEDULE

TABLE OF CONTENTS

- I. INTRODUCTION
- II. PURPOSE
- III. LEGEND
- IV. HISTORICAL RECORDS
- V. IMPLEMENTATION
- VI. ADMINISTRATION
- VII. ELECTRONIC RECORDS/ELECTRONICALLY STORED MEDIUM
- VIII. DISASTER PREPAREDNESS AND RECOVERY
- IX. RETENTION SCHEDULE
 - A. General Schedules
 - B. Airport
 - C. Buildings, Facilities, and Grounds
 - D. Child Support
 - E. Corporation Counsel
 - F. Data Processing
 - G. Economic Support and Workforce Development
 - H. Emergency Management (Ch. 323 Wis. Stats.)
 - I. Emergency Medical Services (Ch. 256 Wis. Stats.)
 - J. Executive/Administrator/Administrative Coordinator
 - K. Finance
 - L. Health Department
 - M. Highway
 - N. Human Services
 - O. Medical Examiner
 - P. Park & Land Use
 - Q. Personnel
 - R. Public Works
 - S. Sheriff
 - T. Surveyor
 - U. University Extension
 - V. Veterans Service
- X. ADDENDA

I. Introduction

The Wisconsin Counties Association's ("WCA") Records Retention Task Force ("Task Force") was created in April, 2009. It was conceived by and was the brainchild of past WCA President Dennis O'Loughlin.

The Task Force's charge was to establish a Records Retention / Disposition Schedule for use by Wisconsin Counties that is: tailored to Wisconsin Counties; comprehensive and flexible; in compliance with legal mandates; and approved by Wisconsin's Public Records Board.

Members of the Task Force:

- A. Kathy Bernier, County Clerk, Chippewa County (Vice Chair)
- B. Connie Goss, Risk/Purchasing Manager, Chippewa County
- C. Sharon Hampson, Board of Supervisors, La Crosse County
- D. Jack Krueger, Board of Supervisors, Brown County
- E. Sharon A. Martin, Register of Deeds, Washington County
- F. Dennis O'Loughlin, WCA President/Board of Supervisors, Dane County
- G. Ellen Sorensen, Director of Administration, Fond du Lac County
- H. Grant P. Thomas, Corporation Counsel, Door County (Chair).

The Task Force gratefully acknowledges guidance and assistance of WCA Legislative Assistant David Callender, and the Wisconsin Public Records Board.

II. Purpose

The primary aims of the Records Retention/Disposition Schedule are:

- A. To provide clear guidance regarding how long to keep records and what to do with those records once that time has passed;
- B. Eliminate the need for individual counties to develop, and obtain WPRB approval of, their own records retention/disposition schedule;
- C. Facilitate uniformity, as to records retention and disposition, across Wisconsin's seventy-two counties; and
- D. Promote the effective and resource-efficient retention and disposition of records.

This is an evolving document. Please help us keep it up-to-date by letting the Task Force know of any errors or omissions, ambiguities, inconsistencies, or additions.

III. Legend

The following terms and abbreviations are used in the records retention schedule:

AT: After termination

C: Confidential

CR: Creation or receipt (typically the retention is calculated from the creation or receipt of a record, plus the designated number of years)

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|------------------------------|---|
| EVT: | Event (typically the retention is calculated from an event, such as the close of a case or end of the project, plus the designated number of years) |
| FIS: | Fiscal (meaning the current fiscal year and the designated number of years) |
| N: | Notify WHS before destruction |
| N/A: | Not applicable |
| P: | Permanent |
| PII: Wis. Stats.) | Personally Identifiable Information (has the meaning specified in §19.62(5) |
| S: | Until superseded |
| W: | Waived Notification |
| WHS: | Wisconsin Historical Society |
| WPRB: | Wisconsin Public Records Board |

IV. Historical Records

Notification to Wisconsin Historical Society under §19.21(4)(a) Wis. Stats. Must notify the WHS sixty (60) days prior to the destruction of any record.

V. Implementation

- A. The Records Retention / Disposition Schedule is purely voluntary. It will require an affirmative act, on the part of a county, to adopt the same.
- B. There are three alternatives. A county may:
 1. Opt in;
 2. Revise and Opt in;
 3. Opt out in whole.

This may be accomplished by means of a county's adoption of a resolution or enactment of an ordinance and completion, execution, and filing of a "boilerplate" notification form.

Opting in (in whole or part) will not obligate a county to create a record. Doing so only requires that a county follow the Records Retention / Disposition Schedule *if* such records exist (i.e., county has created or received such records).

If revise and opt in, a county would need to obtain WPRB approval to the extent its records retention/disposition schedule varies from the approved Record Retention / Disposition Schedule.

If opt out in whole, a county would need to develop and obtain WPRB approval of an independent / separate records retention/disposition schedule / disposition guidelines.

- C. This will not impact record retention / disposition schedules previously approved by the WPRB (§16.61 Wis. Stats.). Keep in mind that WPRB approval of such “sunsets” after ten years (*Id.*). At that time the records retention schedule must be updated and resubmitted to the WPRB for approval (*Id.*).

VI. Administration [the “Nuts and Bolts”]

A. Custodian

Person empowered by statute (§19.33 Wis. Stats.) with the care and custody of public records, and tasked with the responsibility of compliance with Wisconsin’s Public Records Law (§§19.31 – 19.39 Wis. Stats.)

Unless otherwise designated in the schedule, the custodian is, as a rule, the: 1) department head or their permitted designee; 2) an elected official or their permitted designee; and 3) for the county board and for any committees, commissions, boards or authorities created by ordinance or resolution of the county board, the county clerk.

B. Retention

Counties should pay close heed to and scrupulously follow the minimum retention period. Seven (7) years is the default retention period. (§19.21(5)(c) Wis. Stats.)

“Public records” and “record” have the meaning specified in §§16.61(2)(b) and 19.62(6) Wis. Stats. respectively. As important are what “public records” or “record” does not include (i.e., non-records). Destroy non-records when no longer needed or useful. Don’t be a records hoarder.

C. Confidentiality

Records may contain non-public confidential information. A custodian has an obligation to protect the confidentiality of such information.

Records may contain personally identifiable information (§19.62(5) Wis. Stats.). A custodian may have duties and responsibilities relating to protecting personal privacy.

Decisions regarding confidential information or personally identifiable information should be made in consultation with legal counsel.

D. Disposition (i.e., Destruction or Transfer)

1. Dispose of (destroy or transfer) records when the minimum retention period expires.
2. Records retained beyond the minimum retention period are susceptible to disclosure and discovery in the context of audits, litigation, and/or public records request
3. Before destruction

- a. Sixty (60) days prior written notice of destruction must be given to the Wisconsin Historical Society (WHS) pursuant to §19.21(5)(d) Wis. Stats. This does not apply to any record listed in the schedule and designated “waived”.
 - b. Determine if litigation/audit/public records request is pending. If so, place “hold” on records (i.e., cease all disposition activity) until:
 - after the public record request is granted or 60 days after request is denied (§19.35(5) Wis. Stats.) *or*
 - until any litigation or audit is fully and finally resolved
- E. Periodic review and update (if required) of the records retention / disposition schedule guidelines is necessary.
- F. Discontinuance / Withdrawal
- 1. Notification of the WPRB.
 - 2. Develop and obtain the WPRB’s approval of independent/separate records retention schedule / disposition guideline concurrent with discontinuance.
- G. It is strongly recommended that counties assign responsibility (i.e., designate a position and include in position description) to administer schedule / guidelines on a continuing basis.

VII. Electronic Records / Electronically Stored Medium

- A. Remember that it’s the content not the format or medium in determining whether it is a public record.
- B. The format/medium does matter with respect to retention and disposition.
- C. Transfer of record to optical disk or electronic storage (§16.61(7) Wis. Stats.)
 - 1. Destruction of original may be authorized
 - 2. Record generated from optical imaging or electronic formatting of an original record is considered an original record
- D. §16.612 Wis. Stats. requires (among other things) the Wis. DOA to prescribe, by rule, standards for the storage of public records in electronic format. Ch. Adm. 12 Wis. Adm. Code, effective 05-01-2001, establishes defined requirements, standards and guidelines for electronic records management. These requirements, standards and guidelines should be followed.

VIII. Disaster Preparedness and Recovery

- A. A systematic approach to records management (i.e., retention and disposition) is an important part of a comprehensive disaster recovery plan.

B. If a disaster occurs, records have to be recovered and restored.

IX. Retention Schedule [Separate Excel spreadsheet]

X. ADDENDA

- A. Notification of Adoption of the County Records/Disposition Schedule
- B. County Clerk General Schedule and Notification of Adoption
- C. County Treasurer General Schedule and Notification of Adoption
- D. Retention and Disposal of Court Records
- E. Register of Deeds' General Schedule and Notification of Adoption
- F. District Attorney

This is designed only to give general information of subjects covered. It is not intended to provide legal advice or render a legal opinion.

COUNTY RECORDS RETENTION/DISPOSITION SCHEDULE

NOTIFICATION OF ADOPTION

1. Officially [by adoption of a resolution or enactment of an ordinance] adopt, revise and adopt, or opt out¹
2. Complete and send the original and 2 copies to: State Archivist, State Historical Society of Wisconsin, 816 State Street, Madison, Wisconsin 53706-1488.
3. A signed copy will be returned for your files and the additional copies will be filed with the State Archives and with the Public Records Board.
4. Destruction of records according to this schedule is NOT permitted until this form is signed by the State Historical Society of Wisconsin and, for records less than 7 years old, the Wisconsin Public Records Board.

| | |
|--|-----------------------------------|
| County: | Telephone (area code/no.): |
| Address (Street, City and Zip): | |

This is to notify the State Historical Society of Wisconsin and the Wisconsin Public Records Board that the county named above has officially adopted the County Records/Disposition Schedule.

| | |
|---|---------------------------------|
| Name of appropriate authorizing official <i>(County Board Chairperson or County Administrator/Executive):</i> | Title: |
| Signature of appropriate authorizing official: | Date signed (mo/day/yr): |

The Wisconsin Public Records Board and the State Historical Society of Wisconsin acknowledge your Notification of Adoption of the County Records/Disposition Schedule. You are hereby authorized to retain, transfer, and dispose of records as indicated on the schedule.

| | | | |
|-------------------------|---------------------|---------------------------------|---------------------|
| State Archivist: | Date Signed: | Executive Secretary-PRB: | Date Signed: |
|-------------------------|---------------------|---------------------------------|---------------------|

Restrictions on records destruction contained in s. 19.35(5), WI Statutes (Open Records Law), apply prior to destruction. No records should be destroyed if a request for inspection or copying is pending or if litigation involving these records has commenced.

¹Opting in (in whole or part) will not obligate a county to create a record. Doing so only requires that a county follow the retention schedule / disposition guidelines if such records exist (i.e., county has created or received such records).

If opt out in part (i.e., revise and opt in)... a county would need to develop and obtain PRB approval of an independent records retention schedule / disposition guidelines for those areas not covered.

If opt out in whole... a county would need to develop and obtain PRB approval of an independent / separate records retention schedule / disposition guidelines.

**COUNTY CLERK
RECORDS RETENTION SCHEDULE**

NOTIFICATION OF ADOPTION

1. Officially adopt the general schedule by means of a county resolution or ordinance.
2. Complete and send the original and 2 copies to: State Archivist, State Historical Society of Wisconsin, 816 State Street, Madison, Wisconsin 53706-1488.
3. A signed copy will be returned for your files and the additional copies will be filed with the State Archives and with the Public Records Board.
4. Destruction of records according to the general schedule is NOT permitted until this form is signed by the State Historical Society of Wisconsin and, for records less than 7 years old, the Wisconsin Public Records Board.

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|--|-----------------------------------|
| County: | Telephone (area code/no.): |
| Address (Street, City and Zip): | |

This is to notify the State Historical Society of Wisconsin and the Wisconsin Public Records Board that the county named above has officially adopted the County Clerk Records Retention Schedule.

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| Name of appropriate authorizing official (County Board Chairperson or County Administrator/Executive): | Title: |
| Signature of appropriate authorizing official: | Date signed (mo/day/yr): |

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|-------------------------------------|---------------------|
| County Clerk (please print): | |
| Signature of County Clerk: | Date signed: |

The Wisconsin Public Records Board and the State Historical Society of Wisconsin acknowledge your Notification of Adoption of the County Clerks Retention Schedule. You are hereby authorized to retain, transfer, and dispose of records as indicated on the schedule.

| | | | |
|-------------------------|---------------------|---------------------------------|---------------------|
| State Archivist: | Date Signed: | Executive Secretary-PRB: | Date Signed: |
|-------------------------|---------------------|---------------------------------|---------------------|

Restrictions on records destruction contained in s. 19.35(5), WI Statutes (Open Records Law), apply prior to destruction. No records should be destroyed if a request for inspection or copying is pending or if litigation involving these records has commenced.

**COUNTY TREASURER
RECORDS RETENTION SCHEDULE**

NOTIFICATION OF ADOPTION

1. Officially adopt the general schedule by means of a county resolution or ordinance.
2. Complete and send the original and 2 copies to: State Archivist, State Historical Society of Wisconsin, 816 State Street, Madison, Wisconsin 53706-1488.
3. A signed copy will be returned for your files and the additional copies will be filed with the State Archives and with the Public Records Board.
4. Destruction of records according to the general schedule is NOT permitted until this form is signed by the State Historical Society of Wisconsin and, for records less than 7 years old, the Wisconsin Public Records Board.

| | |
|--|-----------------------------------|
| County: | Telephone (area code/no.): |
| Address (Street, City and Zip): | |

This is to notify the State Historical Society of Wisconsin and the Wisconsin Public Records Board that the county named above has officially adopted the County Treasurer Records Retention Schedule.

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| Name of appropriate authorizing official (County Board Chairperson or County Administrator/Executive): | Title: |
| Signature of appropriate authorizing official: | Date signed (mo/day/yr): |

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| County Treasurer (please print): | |
| Signature of County Treasurer: | Date signed: |

The Wisconsin Public Records Board and the State Historical Society of Wisconsin acknowledge your Notification of Adoption of the County Treasurer Retention Schedule. You are hereby authorized to retain, transfer, and dispose of records as indicated on the schedule.

| | | | |
|-------------------------|---------------------|---------------------------------|---------------------|
| State Archivist: | Date Signed: | Executive Secretary-PRB: | Date Signed: |
|-------------------------|---------------------|---------------------------------|---------------------|

Restrictions on records destruction contained in s. 19.35(5), WI Statutes (Open Records Law), apply prior to destruction. No records should be destroyed if a request for inspection or copying is pending or if litigation involving these records has commenced.

Retention and Disposal of Court Records

The retention and disposal of court records is governed by Section 757.54 Wisconsin Statutes and Chapter SCR 72. A summary of the statutory and rule provisions follows.

Section 757.54 Wisconsin Statutes - Retention and Disposal of Court Records.

Provides that "...the retention and disposal of all court records and exhibits in any civil or criminal action or proceeding or probate proceeding of any nature in a court of record shall be determined by the supreme court by rule..."

Chapter WI SCR 72 - Retention and Maintenance of Court Records.

WI SCR 72.01.

Establishes the minimum retention periods for original paper records of any court.

WI SCR 72.02.

Sets out the procedure for disposal of court records.

WI SCR 72.03.

Provides for the destruction of original court record after microfilming or electronically or optically storing.

WI SCR 72.04.

Requires that, prior to destruction, the custodian of the court record provide notice and offer title to the state historical society

WI SCR 72.03.

Destruction of Original Court Record after Microfilming or Electronically or Optically Storing.

WI SCR 72.06.

Addresses expunction of a court record.

Section 757.54 Wisconsin Statutes and Chapter WI SCR 72 are incorporated herein by reference as presently constituted or hereafter revised.

**REGISTER OF DEEDS
RECORDS RETENTION SCHEDULE**

NOTIFICATION OF ADOPTION

1. Officially adopt the general schedule by means of a county resolution or ordinance.
2. Complete and send the original and 2 copies to: State Archivist, State Historical Society of Wisconsin, 816 State Street, Madison, Wisconsin 53706-1488.
3. A signed copy will be returned for your files and the additional copies will be filed with the State Archives and with the Public Records Board.
4. Destruction of records according to the general schedule is NOT permitted until this form is signed by the State Historical Society of Wisconsin and, for records less than 7 years old, the Wisconsin Public Records Board.

| | |
|--|-----------------------------------|
| County: | Telephone (area code/no.): |
| Address (Street, City and Zip): | |

This is to notify the State Historical Society of Wisconsin and the Wisconsin Public Records Board that the county named above has officially adopted the Register of Deeds Records Retention Schedule.

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| Name of appropriate authorizing official (County Board Chairperson or County Administrator/Executive): | Title: |
| Signature of appropriate authorizing official: | Date signed (mo/day/yr): |

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| Register of Deeds (please print): | |
| Signature of Register of Deeds: | Date signed: |

The Wisconsin Public Records Board and the State Historical Society of Wisconsin acknowledge your Notification of Adoption of the Register of Deeds Retention Schedule. You are hereby authorized to retain, transfer, and dispose of records as indicated on the schedule.

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|-------------------------|---------------------|---------------------------------|---------------------|
| State Archivist: | Date Signed: | Executive Secretary-PRB: | Date Signed: |
|-------------------------|---------------------|---------------------------------|---------------------|

Restrictions on records destruction contained in s. 19.35(5), WI Statutes (Open Records Law), apply prior to destruction. No records should be destroyed if a request for inspection or copying is pending or if litigation involving these records has commenced.