

Town of Derry – Administrative Regulation

Effective Date: February 1, 2013 Regulation No: 50

Revision Date: n/a Supersedes: n/a

Approved By: John P. Anderson

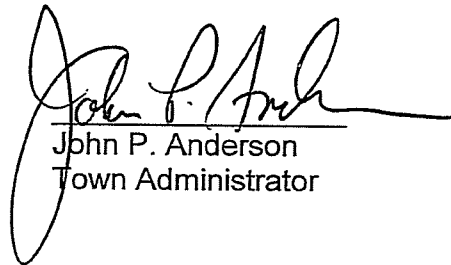
SUBJECT: MUNICIPAL RECORDS RETENTION

I. Scope

This regulation applies to all records in the possession of the Town of Derry.

II. Policy

All employees shall comply with the requirements of the attached Municipal Records Retention Policy, promulgated by the Town of Derry's Municipal Records Committee.



John P. Anderson
Town Administrator

IV. Definitions & Responsibilities:

Record: Per NH RSA 5:29, "record" means document, book, paper, manuscript, drawing, photograph, map, sound recording, video recording, electronic record, microform, or other material, regardless of physical form or characteristics, made or received pursuant to law or in connection with the transaction of official business.

Per NH RSA 33-A:1, "municipal record" means all municipal records, reports, minutes, tax records, ledgers, journals, checks, bills, receipts, warrants, payrolls, deeds and any other written or computerized material that may be designated by the New Hampshire Municipal Records Board.

Electronic Record: Per RSA 5:29, electronic records means information that is created or retained in a digital format. (Electronic records must follow the same retention schedules as records in any other medium.)

Active Records: Records which are used frequently by the creating department or agency.

Inactive Records: Records that are used infrequently by the creating department or agency.

Archives: Per RSA 5:29, the term archives means, "records having permanent or historical value."

Non-archival Records: Records that do not have the permanent value of archives and are thus subject to destruction upon approval of the Committee.

Records Group: Groups of records which document similar actions, decisions or filings or have similar retention periods.

Non-Record: Library and museum material made or acquired and preserved solely for library use or exhibition purposes, extra copies of documents preserved only for convenience or reference, and stocks of publications and of processed documents are "non-record" materials.

Unnecessary draft documents and incidental correspondence that does not meet legal retention criteria of federal, state or local government are "non-record" materials.

Disposition: The final step in the planned retention of a record. Disposition is either physical destruction or permanent preservation which may be accomplished by the transfer of ownership to the Town Clerk, or elsewhere as appropriate. Disposition shall be authorized by the Committee.

Records Retention Schedule: The Records Retention Schedule establishes retention requirements for all known specific types or categories of records. (Appendix A)

In order to ensure legal compliance and to preserve valuable administrative information, the Schedule has been created by agreement between the creating department or agency and the Committee.

Caution: Any and all records that may be relevant to litigation or potential litigation, (i.e., a dispute identified by Senior Staff or Town's legal counsel that could result in litigation and for which a litigation hold notice has been issued) or a potential or actual governmental investigation must be preserved until the Town of Derry's legal counsel determines that the records are no longer needed. This requirement supersedes the Records Retention Schedule or any prior approval to destroy the records.

Caution: Any and all records that are approved for destruction, then requested for review pursuant to a 91-A request shall be preserved according to the following guideline. Allow the requestor thirty days to review the records. If the requestor does not appear, write to the requestor and allow a second thirty day period for a review of the records. If the requestor still does not appear, the records may be destroyed.

Municipal Records Committee: The composition of the Municipal Records Committee (hereinafter, the "Committee") of the Town of Derry was affirmed by Town Council vote on February 7, 2012.

- The Committee consists at minimum of the Assessor, the Assistant Town Administrator, the Controller, the Tax Collector, the Town Administrator, the Town Clerk and the Treasurer. Additional non-voting members may be assigned by the Town Administrator.
- The Committee shall establish policies to ensure compliance with all legal records retention requirements.
- The Committee shall review its policies annually and may amend them at any time.

Department or Agency: Any department, office, committee, commission, board, council or other unit, however designated, of the Town of Derry. This designation includes the Derry Public Library and Taylor Library, but excludes the School District.

Town Clerk: The Town Clerk is responsible for maintaining the records of document disposition for the Town of Derry, as required by law. The Town Clerk is authorized to employ specialists in records management, archives and administration and other specialists necessary to provide advisory, consultative, and technical assistance from monies available for this purpose within the Town Clerk's budget. If approved by the Town Administrator, monies may be made available from elsewhere in the budget.

V. Records Retention Schedule Change Requests

A department or agency head or member of the Committee may request of the Committee, in writing, a change in the Records Retention Schedule. Consideration of business work flow, the types of records and reasons created and kept, financial, historical and legal perspectives shall be considered. While change requests are pending; said records shall continue to be retained. The request shall include:

- the record or record group
- the current retention period and legal citations
- the reason for the change
- an assertion that the change complies with state and federal legal retention requirements and the appropriate citation

The Town Clerk will respond to the request upon a majority vote of the Committee.

In the event of a denial, the reason for the denial shall be included in the meeting minutes of the Committee.

VI. Responsibilities of Departments and Agencies

1. Records Management - The person in charge of any Town department, agency, board or commission shall:
 - Make and preserve public records containing proper documentation of the department or agency's organization, functions, policies, procedures and operations;
 - Establish and maintain effective controls over the creation, maintenance, and use of records and guard against the loss of unauthorized or unlawful removal of records while such records are in their care; and
 - Apply all applicable provisions of the Records Retention Schedule to execute the orderly disposition of records including the transfer of archives to the Town Clerk or elsewhere as approved by the Committee.
2. Records Inventory - The department or agency shall maintain a list of inactive records stored in boxes utilizing the Inactive Records Inventory Form. The form shall be accurate and complete and be dated and page numbered. (Appendix B)
 - Inactive records shall be stored in a manner so that a description of the records or records group is known for each box stored. Descriptions must be useful and in plain language for ease of future retrieval of records in the event of a public request.
 - The form shall be submitted to the Town Clerk annually by the department or agency head.
3. Records Storage - Each box of records stored shall include the following key information on the box:
 - The department or agency that is responsible for the records,
 - The records or records group description and
 - The time frame during which the records were created and the estimated date of disposition.
 - Non-archival Records shall include the date of estimated disposal.
 - Archival Records shall include the word "Permanent" or "Historical."
4. Accessing Stored Records - No person may move or remove stored records without prior approval of the responsible department or agency head.
 - Each department or agency shall develop, as necessary, a chain-of-custody recordkeeping system in order to document the movement or removal of stored records.
5. Disposition of Records – Archiving - The department or agency shall periodically prepare a list of boxes of archival records that it desires to transfer to the custody of the Town Clerk, or elsewhere as appropriate, utilizing the Records Disposition Form. Transfer of records shall be approved by the Committee.
6. Disposition of Records – Disposal - The department or agency shall annually, or more frequently, propose a list of boxes of non-archival records that are eligible for disposal utilizing the Records Disposition Form.

- The form shall be forwarded to the Town Clerk for presentation to and vote of the Records Committee.
 - If non-archival records are eligible for disposal but the department or agency desires to keep certain records longer than the retention period, the records must be clearly identified on the Records Disposition Form, indicating the length of additional time that the record needs to be kept and accompanied by a request to the Committee explaining why the record must be retained.
 - The department or agency shall retain its records until disposition is approved by a vote of the Committee and a Records Disposition Form is signed by the Town Clerk.
 - The Committee shall approve the method of disposal of non-archival, inactive records:
 - Shredding – may be approved for confidential records by a qualified vendor that follows confidential record disposal protocols in compliance with federal, state and local laws. Shredding in house may be approved for confidential records if external shredding is not viable due to cost or is unnecessary due to small volume.
 - Recycling – may be approved for inactive, non-archival records that omit confidential information protected by federal or state law. Materials approved to be recycled shall be recycled through the Town of Derry's transfer station.
7. Destruction of Records - Once the disposition and/or the method of disposal is approved by the Committee, the department or agency shall dispose of the records within 60 days. Upon disposal, the department or agency head shall provide written a Certificate of Records Destruction to the Town Clerk. (Appendix D)
- When the disposal method is determined to be shredding due to components of records being confidential and are of a volume too large to cost effectively shred in-house, the department or agency shall coordinate the disposal with the Town Clerk who may arrange for a consolidated shredding day in order to minimize disposal costs.

VII. Compliance Assurance Process

The Town Clerk shall annually report upon the Municipal Records Retention Policy compliance status of all departments or agencies of the Town. Non-compliant departments or agencies will have 60 days to comply or to document a corrective action plan to the Committee. If the department or agency does not comply or provide a plan within 60 days, the Committee shall report to the Town Administrator in the case of employees and to the Town Council in the case of boards and commissions, and request that action is taken to ensure compliance.

VIII. Resources

The Town of Derry expects all departments or agencies to be knowledgeable of legal records retention requirements and to proactively participate in the development and periodic revision of the Town's Records Retention Schedule.

The following reference list is a sample of applicable laws. Each department or agency head should notify the Town Clerk of any other laws that apply to the Town's records so as to enable the gradual development of a comprehensive resource.

Town Code

- Chapter 5-7.B (2) – The head of each department shall: Maintain a system of records and reports as required to support the services provided by the department.
- Chapter 5-20.C (1) – The Clerk functions shall include: Maintenance of all the records of the Town Council and the proceedings of other boards and committees as required by state and federal law.
- Chapter 5-20.C (8) – The Clerk functions shall include: Ensuring the disposition of all Town records and papers in accordance with New Hampshire Revised Statutes Annotated Chapter 33-A.

State Statutes

- RSA 5-C:96 - Retention Schedule for Forms and Other Documents
- RSA 33-A – Municipal Records Retention Requirements, Retention Schedule for Extensive List of Documents Associated with Municipalities.
- RSA 91-A – NH's Right to Know Law, Public Access to Records of Public Bodies
- RSA 189:29-a – School District & Board Record Retention
- RSA 201-D: 11 – Confidentiality of Library User Records
- RSA 279:27 and 275:49 – Payroll Information & Documentation
- RSA 281-A – Documentation Related to Workers' Compensation Claims
- RSA 294 – Electronic Conversion/Storage of Records
- RSA 354-A – Pre-Employment and Employment Records
- RSA 659:102 – Preservation of Ballots and Other Election Materials

Federal Laws

- Age Discrimination in Employment Act of 1967 (29 U.S.C. 621-634; 29 CFR 1627) – Pre-employment and employment records
- Americans with Disabilities Act of 1990 (42 U.S.C. 12101-12213, 29; CFR 1602.14) – Pre-employment and employment records
- Civil Rights Act of 1964, Title VII (as amended by the Equal Employment Opportunity Act of 1972) (42 U.S.C. Sec. 2000e et seq; 29 CFR 1602.14, 1602.20, 1602.21, 1602.7) – Pre-employment and employment records
- Consolidated Omnibus Budget Reconciliation Act of 1985 (29 U.S.C. 1161 et seq.) – COBRA Notifications and Election Forms, Claims Forms, Letters rejecting COBRA coverage
- Employee Polygraph Protection Act (29 U.S.C. 2001-2009; 29 CFR 801.30) – Documentation of a Statement of Reasons for which the Lie Detector Test is Conducted; Copies of reports supplied by a test administrator.

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- Employment Retirement Income Security Act of 1974 (29 U.S.C.A 1000 et seq) – Records related to benefits determination and participation
- Fair Labor Standards Act of 1938, as amended by the Equal Pay Act of 1963 (29 U.S.C. 201-219, 29 CFR 516, et seq; 29 CFR 1620, et seq.) – Employment Records, including payroll
- Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq; 29 CFR 825.500; 5 CFR 630.1211) – Payroll data, policies related to leave
- Federal Rules of Civil Procedure – Records related to on-going litigation and/or pending claims
- Federal Unemployment Tax Act (26 U.S.C. 651 et seq; 29 CFR 1904) – Employee wage information, contact information and social security numbers for employees, dates of employment
- Health Insurance Portability and Accountability Act of 1996 (45 CFR 164.530) – Personal Health Information of Individuals
- Immigration Reform and Control Act of 1986 (8 U.S.C. 1324a, et seq.; 8 CFR 274a.2 (b) (2)) – INS Form I-9
- Internal Revenue Code of 1986, as amended and Treasury Regulations – various tax documents e.g. Federal Income Tax Withholding – records related to amounts and dates of actual payment
- Occupational Safety and Health Act (29 U.S.C. 651 et seq; 29 CFR 1904) – Employee Medical Records and Employee Exposure Records; annual summary of Occupational Injuries or Illnesses
- Sarbanes-Oxley Act of 2002 – Records related to federal investigations or bankruptcy proceedings

IX. Appendices

- Appendix A - Records Retention Schedule
- Appendix B - Inactive Records Inventory Form
- Appendix C - Records Disposition Form
- Appendix D - Certificate of Records Destruction

This policy was approved by a 5-0-0 vote of the Committee on June 29, 2012.


Denise Neale, Town Clerk

Records Disposition Form
Town of Derry Inactive Records Inventory

Inactive Records Disposition Certificate of

Date: 1/26/2018
Preparer: Stacey Beliveau
Department: Tax Collector

Agency Department Board Commission	Description of Records	Applicable Retention RSA (select from drop down menu)	Records Range Dates From To	Date Minimum Retention Period is fulfilled	Current Physical Location	Box # Reference	Disposition
Finance	MV Daily Registrations	33-A:3-a LXXXVII Motor vehicle permits and registrations-used: current yr plus 3 yrs	Dec. 4, 2012-Jan. 18, 2013	12/31/2016	Tax Office	FIN-TX-MVD-2013C-1	Shred by v
Finance	MV Daily Registrations	33-A:3-a LXXXVII Motor vehicle permits and registrations-used: current yr plus 3 yrs	Jan. 22, 2013-Feb. 28, 2013	12/31/2016	Tax Office	FIN-TX-MVD-2013C-1	Shred by v
Finance	MV Daily Registrations	33-A:3-a LXXXVII Motor vehicle permits and registrations-used: current yr plus 3 yrs	Mar. 1, 2013-Apr. 4, 2013	12/31/2016	Tax Office	FIN-TX-MVD-2013C-1	Shred by v
Finance	MV Daily Registrations	33-A:3-a LXXXVII Motor vehicle permits and registrations-used: current yr plus 3 yrs	Apr. 5, 2013-May 9, 2013	12/31/2016	Tax Office	FIN-TX-MVD-2013C-1	Shred by v
Finance	MV Daily Registrations	33-A:3-a LXXXVII Motor vehicle permits and registrations-used: current yr plus 3 yrs	May 10, 2013-Jun. 13, 2013	12/31/2016	Tax Office	FIN-TX-MVD-2013C-1	Shred by v
Finance	MV Daily Registrations	33-A:3-a LXXXVII Motor vehicle permits and registrations-used: current yr plus 3 yrs	Jun. 14, 2013-Aug. 26, 2013	12/31/2016	Tax Office	FIN-TX-MVD-2013C-1	Shred by v
Finance	MV Daily Registrations	33-A:3-a LXXXVII Motor vehicle permits and registrations-used: current yr plus 3 yrs	Jul. 22, 2013-Aug. 26, 2013	12/31/2016	Tax Office	FIN-TX-MVD-2013C-1	Shred by v
Finance	MV Daily Registrations	33-A:3-a LXXXVII Motor vehicle permits and registrations-used: current yr plus 3 yrs	Aug. 27, 2013-Sept. 30, 2013	12/31/2016	Tax Office	FIN-TX-MVD-2013C-1	Shred by v
Finance	MV Daily Registrations	33-A:3-a LXXXVII Motor vehicle permits and registrations-used: current yr plus 3 yrs	Oct. 1, 2013-Nov. 4, 2013	12/31/2016	Tax Office	FIN-TX-MVD-2013C-1	Shred by v
Finance	MV Daily Registrations	33-A:3-a LXXXVIII Motor vehicle permits and registrations-used: current yr plus 3 yrs	Nov. 5, 2013-Dec. 17, 2013	12/31/2016	Tax Office	FIN-TX-MVD-2013C-1	Shred by v
Finance	MV Daily Registrations	33-A:3-a LXXXVIII Motor vehicle permits and registrations-used: current yr plus 3 yrs	Dec. 18, 2013-Jan. 30, 2014	12/31/2016	Tax Office	FIN-TX-MVD-2013C-1	Shred by v

Based upon my understanding of the relevant laws and the Town's Records Retention Policy and Schedule, I request that the Municipal Records Committee approve the dispo

The Municipal Records Committee approved the disposition of the records listed above by a majority vote on _____ and the records shall be destroyed by _____

Dept Head _____ Signature _____ Date _____

Town Clerk Signature _____ Date _____

I certify that I observed that the records listed above were disposed in accordance with the disposal method as authorized herein.

Authorizing official, Name & Title _____ Signature _____ Date _____

