

## General Record Schedules

In 2008, the Vermont Legislature created the Vermont State Archives and Records Administration (VSARA) to develop new and more systematic retention and disposition standards for public records. VSARA is presently developing Record Schedules, approved by the State Archivist, which set systematized standards based on governmental functions and record types. VSARA recently issued a new General Record Schedule (GRS) that establishes standards for retaining and disposing of records associated with land use and related permits. This article will explain that new standard and outline practices that should help with the management of public records in general.

As a backdrop to any discussion of public record management, Vermont law provides “A custodian of public records shall not destroy, give away, sell, discard, or damage any record or records in his or her charge, unless specifically authorized by law or under a record schedule approved by the state archivist pursuant to 3 V.S.A. § 117(a)(5).” 1 V.S.A. § 317a.

Vermont’s old system of establishing record retention standards was based on disposition orders (DOs), which were issued in response to inquiries from public officials. More than 10,000 DOs were issued between the 1930s and the early 2000s, and the system became confusing and unwieldy. DOs remain in effect as retention standards until specifically superseded.

Of the thousands of disposition orders, only two shed any light on zoning and planning records. Disposition Order 9899.001, issued to municipalities and regional planning commissions, states that “All municipal plans and bylaws proposed, adopted, and superseded” are permanent records and may not be destroyed. And according to DO 9716.001, issued to all municipal offices, the “Zoning Commission keeps original permits permanently; these are duplicate copies given to listers, planning commission, selectboard and others. Destroy after two years. Insure that post-1997 permits are memorialized in land records & housed perm. w/Zoning Comm.” (*sic*)

Some General Record Schedules can be adopted and applied by any unit of state or local government. One of VSARA’s newest General Record Schedules, GRS-1482.1104 ([http://vermont-archives.org/records/schedules/general/pdf/GRS-1482.1104\\_Permitting.LandDevelopment.pdf](http://vermont-archives.org/records/schedules/general/pdf/GRS-1482.1104_Permitting.LandDevelopment.pdf)), addresses land use and related permits. It is part of other Record Schedules that function (and should be used) as an integrated, systematized framework.

Eventually, Record Schedules will cover all of the areas once addressed by DOs, and the DOs will no longer be used. For now, specific DOs are superseded by Record Schedules only when the new standard clearly replaces the old ones.

General Record Schedules generally cover many government functions and record types found in various levels of government, including:

- Accounting Records
- Administrative Policy Records
- Appointment Records
- Audit Records
- Budget Records
- Contracting Files

- Grants Management Records
- Land Use and Related Permits
- Marketing Records
- Monitoring Records
- Operational / Managerial Records
- Payroll Management Records
- Professional Services Licensing Files
- Transitory Records
- GRS for Public Utilities (does not yet include all utilities).

These GRS set benchmark minimums of retention time frames that should not be abridged. An entity can extend a retention time if it clearly establishes a reason (which could be based on legal details unique to the implementing entity, or merely based on operational preferences) and specifies the longer time frame. It is essential to apply the standard consistently (keeping all comparable records for the same interval), and avoid open-ended indefinite retention. Documented retention standards are invaluable when controversy arises.

Any local government that uses GRS should adopt them in writing. The written adoption should make clear that the GRS are the basis for public record retention or disposal.

If a local government intends to keep certain records for longer than the minimum set forth in the GRS, it should adopt a written policy explaining which records are to be retained longer, for how much longer, and the reasons why (legal, regulatory, or operational). Keep that policy with the GRS adoption document.

As mentioned above, the GRS are intended to operate as an integrated system. But for those new to GRS, it can be daunting to try to utilize or even conceptualize all of the schedules at once. Therefore, it makes sense to work with a single schedule, perhaps a simple one, to gain familiarity and skill, which will make it easier to move forward with others, working from the general to the specific. The Transitory Record Schedule – [http://vermont-archives.org/records/schedules/general/pdf/GRS-1000.1000\\_TransitoryRecords.pdf](http://vermont-archives.org/records/schedules/general/pdf/GRS-1000.1000_TransitoryRecords.pdf) – is a good place to start.

New users of the GRS should think of each Record Schedule as a lens. Picture yourself in the midst of your office (or wherever you store your records), looking at all of your records through that lens to see which ones fit within that Record Schedule.

Once all records in a specific GRS are identified, they can be thought of as sifted for management consistent with that GRS. The field of remaining records needing management has now narrowed, often substantially. This allows you to consider and, if appropriate, use other GRS as you move from the general to the specific. Don't do anything drastic too quickly. You'll want to become familiar with various GRS to make sure they are considered in context.

While all of the GRS are intended to be useful for many records found at nearly any level of government, do not stretch a GRS beyond its breaking point, or try to force specialized records with unique retention requirements into a general schedule.

Although a given matter file, storage box, or file drawer may consist of a single record type, it is common for multiple types of records to be commingled in every file. Transitory Records that may be discarded once they're rendered obsolete will frequently be found interspersed with other documents that may need to be kept for a limited period of time, along with other records that must be retained permanently.

Also, it is important to understand who is the custodian of a given record, and, when there are multiple copies, who holds the official version. The Vermont Access to Public Records Law uses but does not

define the term custodian, and the courts have also shed little light on the subject. Identifying a custodian depends on the law that applies to a given function, the nature of the function, and local allocation of responsibilities. Frequently, a document produced by one official may be distributed to others both within and beyond that government office. Some recipients may use that document in an official function, while others may use it only as an informational reference.

As long as there is a clear understanding of who is responsible for the official version of a record, other officials and bodies who may have received copies for purely informational purposes, or for a purpose that no longer requires the record, can dispose of their copies. (Verify first whether distinct retention standards apply to these other roles.) Then the custodian can apply the relevant retention standard.

With that framework in mind, we turn to the details of the GRS on Land Use and Related Permits. This record schedule can be used for any permitting functions: zoning, subdivision review, DRB or Appropriate Municipal Panel, delegated onsite water supply or wastewater, and others that bear upon the use of a parcel of land.

In brief, the GRS on Land Use and Related Permits says that applications should be kept until the matter commenced by the application is completed or closed, plus three years. Completed/closed means that a final decision has been issued and any appeals, or potential appeals, have concluded. When a decision granting a permit incorporates details of the application by reference and relies on those details as conditions of the permit, the application should be kept as long as the decision is kept.

Substantive correspondence is contrasted with routine correspondence, with the latter treated as a Transitory Record that can be disposed of as soon as it is obsolete. Substantive correspondence in the permitting context has significant administrative value or may be essential to supporting a final decision. It should be kept for 15 years and then assessed like decisions as defined in the GRS:

“... permits, temporary permits, permit amendments, revocations, site work and construction authorizations, agreements, variances, waivers, and jurisdictional decisions issued, denied or withdrawn” should be kept until the permit expires, plus 15 years. Includes compliance schedules and similar records issued as part of the decision.”

The correspondence should be kept for as long as a permit is in effect (and some permits may continue indefinitely or permanently), plus 15 years, after which they should be reviewed for final disposition. At that point, they may be disposed of unless they meet any of the criteria for an archival record, in which case they should be permanently retained. Criteria for assessing archival attributes are at <http://vermont-archives.org/records/handbook/pdf/ArchivalRecords.pdf>.

Notices given or received in the course of a permit proceeding should be retained until the proceeding is completed or closed, plus an additional year. They may then be destroyed.

For other record types connected with permit processes – such as certificates, registers, and supporting material – please refer to the GRS itself. Similarly, for records connected with other governmental processes, such as management and budget, that may overlap with those associated with permitting, please refer to the other GRS that are available at <http://vermont-archives.org/records/schedules/general/>. VSARA will continue to add more GRS over time.

If you have other questions associated with local government records, please contact VSARA at <http://vermont-archives.org/records/local/retention.htm>.

Trevor Lewis  
Records Analyst and Local Records Program Coordinator  
Vermont State Archives and Records Administration