



**VALENCIA COUNTY  
BOARD OF COUNTY COMMISSIONERS  
RESOLUTION Nº 2017-13**

**A RESOLUTION ESTABLISHING A COUNTY RECORDS RETENTION AND DISPOSITION POLICY**

**PREAMBLE**

**WHEREAS**, the Board of County Commissioners met in a regularly scheduled meeting on Wednesday, February 1, 2017 at 3:00 p.m. in the Valencia County Administration Building, 444 Luna Avenue, Los Lunas, New Mexico 87031; and,

**WHEREAS**, NMSA 1978, Section 4-38-18 (1876) vests a county's management in its Board of County Commissioners; and,

**WHEREAS**, NMSA 1978, Section 3-18-1 (1972) provides that municipalities, and also counties pursuant to NMSA 1978, Section 4-37-1 (1995), have the power to "protect generally the property of its municipality and its inhabitants" and to "preserve peace and order"; and,

**WHEREAS**, Section 4-37-1 *et seq.* NMSA 1978 provides that counties may adopt rules not inconsistent with statutory or constitutional limitations placed on counties, to discharge those powers necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the county and its inhabitants; and,

**WHEREAS**, NMSA 1978, Section 4-38-13 (1876) provides that the board of county commissioners shall have power at any session to make such orders concerning the property belonging to the county as they may deem expedient; and,

**WHEREAS**, the County of Valencia is implementing a Records Management Program; and

**WHEREAS**, the purpose of the County's Records Management Program is to ensure that certain documents are maintained for legal, fiscal, and other purposes and subject to destruction at set durations; and

**WHEREAS**, records disposition is the final action after a record's retention period has ended that permits the destruction or further retention of public records; and

**WHEREAS**, the New Mexico Commission of Public Records, State Records Center and Archives issues Records Retention and Disposition Schedules some of which are applicable to New Mexico counties; and

**WHEREAS**, NMSA 1978, Section 14-7-1 (1967) provides that “[t]he following county records shall be deemed obsolete and may be destroyed: A. purchase vouchers which are six years old; B. chattel mortgages six years after the expiration of their term; C. security agreements filed under the Uniform Commercial Code six years after the expiration of their term; D. copies of state highway project contracts filed by the chief highway engineer three years after the date of filing; E. duplicate information reports filed in the offices of county officials, including but not limited to duplicate reports of the county treasurer, sheriff, county agricultural agents and county health officers, which are two years old; F. chattel mortgage releases six years after the date of filing; and G. termination statements filed under the Uniform Commercial Code six years after the date of filing;” and,

**WHEREAS**, NMSA 1978, Section 14-1-8 (1961) provides that “[o]bsolete county records; notice of proposed destruction; preservation desired by state records administrator; delivery of documents, an official charged with the custody of any records and who intends to destroy those records, shall give notice by registered or certified mail to the state records administrator, state records center, Santa Fe, New Mexico, of the date of the proposed destruction and the type and date of the records he intends to destroy. The notice shall be sent at least sixty days before the date of the proposed destruction. If the state records administrator wishes to preserve any of the records, the official shall allow the state records administrator to have the documents by calling for them at the place of storage;” and,

**WHEREAS**, NMSA 1978, Section 14-3-18 (2005) provides that recognized counties have a right and duty to formulate programs for the disposition of public records maintained in county offices; and,

**WHEREAS**, NMSA 1978, Section 14-3-18 (2005) provides that recognized counties have a right and duty to formulate programs for the disposition of public records maintained in county offices; and,

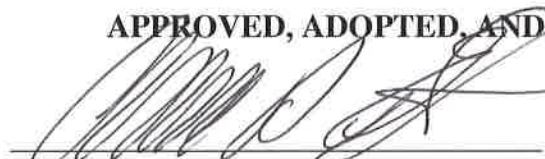
**WHEREAS**, until its repeal on November 30, 2015, the New Mexico Administrative Code (NMAC) provided Record Retention and Disposition Schedules for local governments, however now local governments are required to create their own schedules; and,

**WHEREAS**, on November 30, 2015 the State Records Administrator issued NMAC Rule 1.21.3 as a guide to local government which this policy is based on; and,

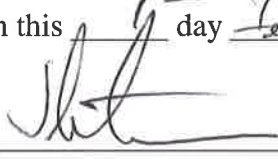
**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of the County of Valencia that the County adopts and follows the following policy and the Retention and Disposition Schedules as set forth in Exhibit "A".

**BOARD OF COUNTY COMMISSIONERS**

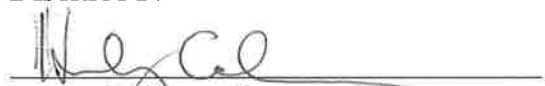
**APPROVED, ADOPTED, AND PASSED** on this 9<sup>th</sup> day February, 2017.



CHARLES D. EATON, CHAIR  
DISTRICT IV



JHONATHAN ARAGON, VICE-CHAIR  
DISTRICT V



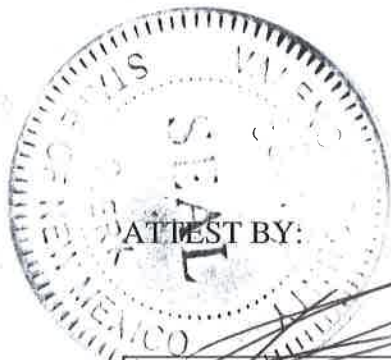
HELEN Y. COLE, COMMISSIONER  
DISTRICT I



BILLY RAY MARTINEZ, COMMISSIONER  
DISTRICT II



DAVID A. HYDER, COMMISSIONER  
DISTRICT III



ATTEST BY:



PEGGY CARABAJAL, COUNTY CLERK

## VALENCIA COUNTY RECORDS AND DISPOSITION POLICY

### 1. PURPOSE

This policy is to ensure the uniform application of efficient maintenance, retention and disposition of County public records in accordance with state law.

### 2. POLICY

Valencia County shall maintain, retain and dispose of public records in accordance with state law and other public records requirements. Non-records or non-essential records shall be retained as the custodial department deems necessary.

### 3. DEFINITIONS

- a. **Archives-** means the permanent records of the County.
- b. **Computer-** means an electronic device designed to accept data (input), perform prescribed mathematical and logical operations at high speed (processing) and supply the results of these operations (output). This includes, but is not limited to, mainframe computers, minicomputers and microcomputers, personal computers, portable computers, pocket computers, tablet computers, telephones capable of storing information, PDAs, MDTs, and other devices.
- c. **Confidential-** means information provided to, created by or maintained by a government agency and that is exempt from release under state or federal laws, because disclosure would cause substantial harm or constitute an invasion of privacy or is otherwise prohibited by law.
- d. **Custodial department-** means the department responsible for the maintenance, care or keeping of public records, regardless of whether the records are in that department's actual physical custody and control.
- e. **Custody-** means the guardianship of records, archives and manuscripts, which may include both physical possession (protective responsibility) and legal title (legal responsibility).
- f. **Degaussing-** means the process of removing magnetism from magnetically recorded tape thereby rendering most of the information non-reconstructable.
- g. **Destruction-** means the disposal of records of no further value by shredding, burial, pulping, electronic overwrite or some other process, resulting in the obliteration of information contained on the record.

- h. **Disposition-** means the final action that puts into effect the results of an appraisal decision for a record series (e.g., transfer to archives or destruction).
- i. **Electronic public record-** means any information that is recorded in a form that only an electronic device can process and that satisfies the definition of a public record in Subsection G of Section 14-3-2 NMSA 1978.
- j. **Non-records or non-essential records-** means extra copies of documents kept solely for convenience of reference, stocks of publications, records not usually included within the scope of the official records of an agency or government entity and library material intended only for reference or exhibition. The following specific types of materials are non-records: materials neither made nor received in pursuance of statutory requirements nor in connection with the functional responsibility of the officer or agency; extra copies of correspondence; preliminary drafts; blank forms, transmittal letters or forms that do not add information; sample letters; and reading files or informational files.
- k. **On-site destruction-** means that once a department has received approval from the County Records Custodian and archives to destroy records, the department has the option to destroy records on-site at the physical location of the department using an approved method of destruction.
- l. **Permanent records-** means records considered unique or so valuable in documenting the history or business of an organization that they are preserved in an archives.
- m. **Public records-** means all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, made or received by the County in pursuance of law or in connection with the transaction of public business and preserved or appropriate for preservation, by the County or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government or because of the informational and historical value of data contained therein (Section 14-4-2 NMSA 1978).
- n. **Records-** means information preserved by any technique in any medium now known or later developed, that can be recognized by ordinary human sensory capabilities either directly or with the aid of technology (1.13.70 NMAC).
- o. **Records center-** means a facility designed and constructed to provide effective storage for records that have become inactive but have not reached their disposition date. The County's records center is the principal County facility for the storage, disposal, allocation or use of non-current records of departments or materials obtained from other sources.

- p. **Records custodian-** means the County employee appointed by the Board of County Commission to administer this policy. The records custodian has responsibility for archiving, tracking and disposing of all County public records.
- q. **Records liaison officers-** means a person in each department responsible for authorizing the transfer, withdrawal or destruction of records and who liaisons with the records custodian.
- r. **Records management-** means the systematic control of all records from creation or receipt through processing, distribution, maintenance and retrieval, to their ultimate disposition.
- s. **Records retention and disposition schedules-** means rules adopted by the state commission of public records pursuant to Section 14-3-6 NMSA 1978 describing records of an agency, establishing a timetable for their life cycle and providing authorization for their disposition.
- t. **Recycling-** means the process that recovers the raw materials of a medium allowing for the reuse of various media. Overwriting on magnetic media is a means of recycling.
- u. **Reformatting-** means the process in which hard drives and floppy drives are reinitialized.
- v. **Retention-** means the period of time during which records must be maintained by the County because they are needed for operational, legal, fiscal, historical or other purposes.
- w. **Trigger event-** means the closing event of a record which begins the retention period.

#### 4. ASSIGNMENT OF RESPONSIBILITIES

- a. The County Commission appoints a “*Records Custodian*” to carry out the purposes of the Public Records Act. The records custodian is responsible for establishing records management programs within the organization for the purpose of ensuring the efficient and economical management of public records throughout their lifecycle from their creation, utilization, maintenance, retention, preservation and final disposition.
- b. The records custodian is hereby delegated the authority to order the routine retention and or destruction of public records, in accordance with the adopted records retention and disposition schedules and the process established by the State Commission of Public Records regulations and shall prescribe the appropriate method of destruction of public records.

- c. Each department is responsible for appointing a “records liaison officer” to cooperate with, assist and advise the records custodian in the performance of his or her duties and to provide such other assistance and data as shall enable the records custodian to properly carry out the purposes of the Public Records Act (Section 14-3-4 NMSA 1978).

## **5. DISPOSITION OF PUBLIC RECORDS**

- a. County departments shall select a records center for public records storage and retention.
- b. Records liaison officers shall complete “*records disposition forms*” for each box or bundle of records requiring storage.
  - i. The completed records disposition form should be securely taped or affixed to the front of the records container or box and stored in a safe and manageable manner.
  - ii. A copy of the completed records disposition form should be forwarded to the Records Custodian.
  - iii. Records disposition forms for records considered unique or have historically value or are permanent records shall be marked “PERMANENT”. Permanent public records shall NOT be destroyed.
- c. Departments shall ensure the proper authorized disposition of their records regardless of format or medium so that permanent records are preserved and records no longer of use to the County are promptly deleted or destroyed based on retention periods established in records retention and disposition schedules and subject to the written approval of the records custodian.
- d. Departments shall secure written approval from the records custodian before destroying any public record or before transferring records to County archives.
- e. Departments shall follow regulations issued by the records custodian governing the methods of destruction.
- f. Departments shall at least annually, inspect department archived records and make arrangements with the records custodian to dispose of records exceeding trigger dates.

## **6. DESTRUCTION OF NON-RECORDS**

- a. Destruction of non-records is the sole responsibility of the custodial department and does not require prior approval of the records custodian. This responsibility includes identifying whether the information is a non-record or a public record.

- b. Non-records that contain confidential or sensitive information exempt from disclosure by statute shall be destroyed in such a manner that the information cannot be read, interpreted or reconstructed. Non-records that contain confidential or sensitive information shall be destroyed by shredding, macerating or recycling through a bonded document destruction vendor.
- c. Non-records without confidential requirements or that do not contain personal identifiers may be destroyed by any of the following methods discarded in a waste receptacle, dumpsite burial, recycled through a recycler, or shredded.
- d. Electronic non-records that do not contain confidential or sensitive information may be destroyed by physical destruction of the media or erasure of the data from all media including back-up media.

## **7. DESTRUCTION OF PUBLIC RECORDS**

- a. Destruction of public records may occur on-site through the records custodian. Departments choosing to store public records on-site for the life cycle of the records shall contact the records custodian when the records have met their legal retention period.
- b. The records liaison officer shall complete and submit the County's "*request for disposition*" form to the records custodian. The records liaison officer shall indicate on the form if the records are stored on-site.
- c. The records custodian shall either approve or deny the request. If denied, the records custodian shall identify the appropriate trigger date.
- d. When appropriate the records custodian shall conduct a review and appraisal of the records to make a determination.
- e. The records custodian shall then give notice by registered or certified mail to the state records administrator, state records center, Santa Fe, New Mexico, of then date of the proposed destruction and the type and date of the records he intends to destroy. The notice shall be sent at least sixty days before the date of the proposed destruction. If the state records administrator wishes to preserve any of the records, the records custodian shall allow the state records administrator to have the documents by calling for them at the place of storage. The Records Disposition Form, Attachment "B"
- f. If the records listed on the request for disposition have met their legal retention period and are eligible for destruction, the department shall receive a letter/email from the records custodian detailing the final action in the course of a record's life cycle.
- g. The records custodian shall notify a department in writing if the request for on-



site destruction is denied.

h. The records custodian will schedule appropriate records destruction on-site and shall certify the destruction in writing. For legal and audit purposes, records the records custodian shall retain a copy of the certification on file. The County shall use only approved methods for on-site destruction of public records as identified below.

i. Records that contain confidential or sensitive information shall be destroyed in such a manner that the information cannot be read, interpreted or reconstructed by:

- 1) witnessed shredding, then pulping through a bonded document destruction vendor, or
- 2) witnessed macerating through a bonded document destruction vendor.

ii. Records without confidentiality requirements shall be destroyed by:

- 1) recycling by a bonded document destruction vendor,
- 2) shredding;
- 3) macerating; or
- 4) witnessed dumpsite burial.

h. Electronic records shall be destroyed pursuant to 1.13.3 NMAC, Management of Electronic Records.