

Managing Public Records for Local Government

1. Values of Records

- a. Administrative
- b. Fiscal
- c. Legal
- d. Historical

2. Public Records Laws

a. General Statute 121: Archives and History Act

- § 121-4(2): The Department of Natural and Cultural Resources shall have the power to conduct a records management program, including the operation of a records center or centers and a centralized microfilming program, for the benefit of all State agencies, and to give advice and assistance to the public officials and agencies in matters pertaining to the economical and efficient maintenance and preservation of public records.
- § 121-5(b): No person may destroy, sell, loan, or otherwise dispose of any public record without the consent of the Department of Natural and Cultural Resources, except as provided in G.S. 130A-99. Whoever unlawfully removes a public record from the office where it is usually kept, or alters, mutilates, or destroys it shall be guilty of a Class 3 misdemeanor and upon conviction only fined at the discretion of the court.
- § 121-5(c): When requested by the Department of Natural and Cultural Resources, public officials shall assist the Department in the preparation of an inclusive inventory of records in their custody, to which inventory shall be attached a schedule, approved by the head of the governmental unit or agency having custody of the records and the Department of Natural and Cultural Resources, establishing a time period for the retention or disposal of each series of records. So long as such approved schedule remains in effect, destruction or disposal of records in accordance with its provisions shall be deemed to have met the requirements of G.S. 121-5(b).

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=121>

b. General Statute 132: Public Records

- § 132-1(a): "Public record" or "public records" shall mean all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions.
- § 132-1(b): The public records and public information compiled by the agencies of North Carolina government or its subdivisions are the property of the people. Therefore, it is the policy of this State that the people may obtain copies of their public records and public information free or at minimal cost unless otherwise specifically provided by law. As used herein, "minimal cost" shall mean the actual cost of reproducing the public record or public information.
- § 132-3(a): No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with G.S. 121-5 and G.S. 130A-99, without the consent of the Department of Natural and Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or alters, defaces, mutilates or destroys it shall be guilty of a Class 3 misdemeanor and upon conviction only fined not less than ten dollars (\$10.00) nor more than

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=132>

five hundred dollars (\$500.00).

- § 132-6(a): Every custodian of public records shall permit any record in the custodian's custody to be inspected and examined at reasonable times and under reasonable supervision by any person, and shall, as promptly as possible, furnish copies thereof upon payment of any fees as may be prescribed by law. As used herein, "custodian" does not mean an agency that holds the public records of other agencies solely for purposes of storage or safekeeping or solely to provide data processing.
- § 132-6(b): No person requesting to inspect and examine public records, or to obtain copies thereof, shall be required to disclose the purpose or motive for the request.
- § 132-6(c): No request to inspect, examine, or obtain copies of public records shall be denied on the grounds that confidential information is commingled with the requested non-confidential information. If it is necessary to separate confidential from non-confidential information in order to permit the inspection, examination, or copying of the public records, the public agency shall bear the cost of such separation.
- § 132-6(f): Notwithstanding the provisions of subsection (a) of this section, the inspection or copying of any public record which, because of its age or condition could be damaged during inspection or copying, may be made subject to reasonable restrictions intended to preserve the particular record.
- § 132-6.2(a): Persons requesting copies of public records may elect to obtain them in any and all media in which the public agency is capable of providing them. No request for copies of public records in a particular medium shall be denied on the grounds that the custodian has made or prefers to make the public records available in another medium. The public agency may assess different fees for different media as prescribed by law.
- § 132-6.2(d): Nothing in this section shall be construed to require a public agency to respond to requests for copies of public records outside of its usual business hours.
- § 132-6.2(e): Nothing in this section shall be construed to require a public agency to respond to a request for a copy of a public record by creating or compiling a record that does not exist. If a public agency, as a service to the requester, voluntarily elects to create or compile a record, it may negotiate a reasonable charge for the service with the requester. Nothing in this section shall be construed to require a public agency to put into electronic medium a record that is not kept in electronic medium.
- § 132-8.1: It shall be the duty of the head of each State agency and the governing body of each county, municipality and other subdivision of government to cooperate with the Department of Natural and Cultural Resources in conducting surveys and to establish and maintain an active, continuing program for the economical and efficient management of the records of said agency, county, municipality, or other subdivision of government.
- § 132-8.2. In cooperation with the head of each State agency and the governing body of each county, municipality, and other subdivision of government, the Department of Natural and Cultural Resources shall establish and maintain a program for the selection and preservation of public records considered essential to the operation of government and to the protection of the rights and interests of persons, and, within the limitations of funds available for the purpose, shall make or cause to be made preservation duplicates or designate as preservation duplicates existing copies of such essential public records. Preservation duplicates shall be durable, accurate, complete and clear, and such duplicates made by a photographic, photo static, microfilm, micro card, miniature photographic, or other process which accurately reproduces and forms a durable

Examples of confidential records:

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<https://archives.ncdcr.gov/human-readable-preservation-duplicates>

medium for so reproducing the original shall have the same force and effect for all purposes as the original record whether the original record is in existence or not. A transcript, exemplification, or certified copy of such preservation duplicate shall be deemed for all purposes to be a transcript, exemplification, or certified copy of the original record. Such preservation duplicates shall be preserved in the place and manner of safekeeping prescribed by the Department of Natural and Cultural Resources.

3. Personal Identifying information: General Statute § 14-113.20. Identity theft.

(b) The term “identifying information” as used in this Article includes the following:

- (1) Social security or employer taxpayer identification numbers.
- (2) Driver’s license, State identification card, or passport numbers.
- (3) Checking account numbers.
- (4) Savings account numbers.
- (5) Credit card numbers.
- (6) Debit card numbers.
- (7) Personal Identification (PIN) Code as defined in G.S. 14-113.8(6).
- (8) Electronic identification numbers, electronic mail names or addresses, Internet account numbers, or Internet identification names.
- (9) Digital signatures.
- (10) Any other numbers or information that can be used to access a person's financial resources.
- (11) Biometric data.
- (12) Fingerprints.
- (13) Passwords.
- (14) Parent’s legal surname prior to marriage.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=14-113.20>

4. Local Government Schedules

<https://archives.ncdcr.gov/government/retention-schedules/local-government-schedules>

5. 07 NCAC 04M .0510 Methods of Destruction

(a) When used in an approved records retention and disposition schedule, the provision that paper records are to be destroyed means that the records shall be:

- (1) burned, unless prohibited by local ordinance;
- (2) shredded or torn so as to destroy the record content of the documents or materials concerned;
- (3) placed in acid vats so as to reduce the paper to pulp and to terminate the existence of the document or materials concerned; or
- (4) sold as waste paper, provided that the purchaser agrees in writing that the documents or materials concerned will not be resold without pulverizing or shredding the documents so that the information contained within cannot be practicably read or reconstructed.

(b) When used in an approved records retention and disposition schedule, the provision that electronic records are to be destroyed means that the data and metadata are to be overwritten, deleted, and unlinked so the data and metadata may not be practicably reconstructed.

(c) When used in an approved records retention and disposition schedule, the provision that confidential records of any format are to be destroyed means the data, metadata, and physical media are to be destroyed in such a manner that the information cannot be read or reconstructed under any means.

<http://reports.oah.state.nc.us/ncac/title%2007%20-%20natural%20and%20cultural%20resources/chapter%2004%20-%20archives%20and%20history/subchapter%20m/07%20ncac%2004m%20.0510.pdf>

6. Admissibility: General Statute § 8-45.1. Photographic reproductions admissible; destruction of originals
- (a) If any business, institution, member of a profession or calling, or any department or agency of government, in the regular course of business or activity has kept or recorded any memorandum, writing, entry, print, representation, X ray or combination thereof, of any act, transaction, occurrence or event, and in the regular course of business has caused any or all of the same to be recorded, copied or reproduced by any photographic, photo static, microfilm, micro card, miniature photographic, or other process which accurately reproduces or forms a durable medium for so reproducing the original, the original may be destroyed in the regular course of business unless held in a custodial or fiduciary capacity or unless its preservation is required by law. Such reproduction, when satisfactorily identified, is as admissible in evidence as the original itself in any judicial or administrative proceeding whether the original is in existence or not and an enlargement or facsimile of such reproduction is likewise admissible in evidence if the original reproduction is in existence and available for inspection under direction of court. The introduction of a reproduced record, enlargement or facsimile, does not preclude admission of the original.
- (b) The provisions of subsection (a) of this section shall apply to records stored on any form of permanent, computer-readable media, such as a CD-ROM, if the medium is not subject to erasure or alteration. Nonerasable, computer-readable storage media may be used for preservation duplicates, as defined in G.S. 132-8.2, or for the preservation of permanently valuable records as provided in G.S. 121-5(d).

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=8-45.1>

7. Sample Electronic Records and Imaging Policy For Use by Local Agencies
1. Purpose
 2. Responsible Parties
 3. Availability of System and Records for Outside Inspection
 4. Maintenance of Trustworthy Electronic Records
 5. Components of Information Technology System
 6. Documentation of Information Technology System
 7. Digital Imaging Program Documentation and Procedures
 8. Other Electronic Records Management Practices
 9. Compliance and Electronic Records Self-Warranty
 10. Request for Disposal of Original Records Duplicated by Electronic Means

<https://archives.ncdcr.gov/sample-electronic-records-and-imaging-policy-use-local-agencies>

To Have Great Records, Here's What You Must Do *Every* Workday

Have you each day . . .

- Documented, fully and completely, all official transactions of government business accomplished for your department, and done so in a manner that reflects professionalism for the government and for yourself?
- Saved all records/files/information in accordance with a formal, approved file plan, developed in a manner that is fully customized to the needs of your department and/or the jurisdiction?
- Assigned all filenames to saved records/documents/information using terms designed to facilitate their future retrieval, including by persons other than you?
- Saved all records/documents/information solely to storage repositories that are managed in accordance with approved records management policies/rules of the jurisdiction?
- Selected and assigned metadata fields/attributes that are needed to manage/retrieve saved electronic records for the duration of their approved retention periods?
- Discarded duplicates, drafts/working papers daily, as soon as they are no longer useful in accomplishing departmental or jurisdictional business?
- Deleted email of transitory value?
- Saved email of routine or long-term business value to managed repositories in which their retention requirements can be satisfied?
- At the first sign of trouble, halted the disposal of any records related to litigation/audit/investigation, even if approved retention periods have lapsed and they are not (yet) under subpoena?
- Disposed of all jurisdictional records for which you are responsible in a manner appropriate to the level of confidentiality of their content?
- Daily scanned (or otherwise converted from paper) to digital format local government records, for which you are responsible, in a manner to ensure that they are complete, true and accurate, accessible, legible and otherwise fully usable for any business or legal purpose?
- Saved/stored all vital, mission-critical records solely to repositories that are fully backed up, secure and protected against the risk of loss or inadvertent disposal from disaster or other causes?

David O. Stephens, "The Daily Management of Records and Information"
http://msa.maryland.gov/msa/intromsa/html/record_mgmt/pdf/nagara/daily_mgmt.pdf

Records Inventory Form

Date		Employee Name			Phone	
Division		Section		Branch		
Location(s) of Records						

[illegible]

Legalities

North Carolina General Statute Chapter 132: Public Records

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=132>

North Carolina General Statute Chapter 153A: Counties

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=153a>

North Carolina General Statute Chapter 160A: Cities and Towns

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=160a>

07 North Carolina Administrative Code 04M .0510 – Methods of Destruction

<http://reports.oah.state.nc.us/ncac/title%2007%20-%20natural%20and%20cultural%20resources/chapter%2004%20-%20archives%20and%20history/subchapter%20m/07%20ncac%2004m%20.0510.pdf>

Lawrence, David M. *Public Records Law for North Carolina Local Governments*, 2d ed. Chapel Hill: University of North Carolina School of Government, 2009.

Local Retention and Disposition Schedules

<https://archives.ncdcr.gov/government/local>

- Request for Disposal of Original Records Duplicated by Electronic Means
<https://archives.ncdcr.gov/request-destruction-records-reproduced-electronic-means>
- Request for Change in Records Schedule
<https://archives.ncdcr.gov/documents/request-change-records-schedule>
- Request for Disposal of Unscheduled Records
<https://archives.ncdcr.gov/request-disposal-unscheduled-records>

Change Log

https://ncrecords.files.wordpress.com/2021/05/2021_localprogramschedule_changelog-1.pdf

Recordkeeping

Generally Accepted Recordkeeping Principles

<https://www.arma.org/general/custom.asp?page=principles>

GARP Health Checkup

https://www.statearchivists.org/files/8814/7209/3943/Health_Checkup_Factors_-_Activity_1A_-_Franks.pdf

Making Your Records Management Program Successful

http://msa.maryland.gov/msa/intromsa/html/record_mgmt/pdf/nagara/making_mgmtsuccess.pdf

Records Management Online Tutorials

<https://archives.ncdcr.gov/government/training/online-tutorials-and-resources>

Disaster Prep

CoSA Records Emergency Planning and Response (REPR) Resources

<https://www.statearchivists.org/programs/emergency-preparedness/records-emergency-planning-and-response-repr/>

Digitization

Federal Agencies Digital Guidelines Initiative

<http://www.digitizationguidelines.gov/>

Managing Electronic Records

https://www.nagara.org/Public/Public/Resources/Local_Government_Records_Management_Technical_Bulletins.aspx

Digital Records Policies, Guidelines, and Tutorials from the State Archives

<https://archives.ncdcr.gov/government/digital-records/digital-records-policies-and-guidelines>

- Managing Electronic Public Records: Recognizing Perils and Avoiding Pitfalls
- Global Shared Storage Guidelines
- Sample Electronic Records and Imaging Policy for Use by Local Agencies
- Guidelines for Managing Trustworthy Digital Public Records
- Best Practices for Local Government Social Media Usage in North Carolina
- Request for Disposal of Original Records Duplicated by Electronic Means
- Guidelines for Digital Imaging Systems (5 parts)
- File Format Guidelines for Management and Long-Term Retention of Electronic Records
- Best Practices for File-Naming

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