

**RESOLUTION NO. 2017-04**

**ADOPTING RECORDS RETENTION AND DISPOSITION SCHEDULES  
FOR THE TOWN OF SILVER CITY**

**WHEREAS**, it would be in the best interest of the Town of Silver City to have Municipal Records Retention and Disposition Schedules for the public records maintained by the Town; and

**WHEREAS**, on November 30, 2015 the State Records Center and Archives repealed the Records Retention and Disposition Schedules that were adopted by the Town of Silver City with the adoption of Resolution No. 97-17 on May 27, 1997; and

**WHEREAS**, during the State Records Center and Archives roundtable discussions and the public hearing process to repeal all of the Records Retention and Disposition Schedules, municipalities were informed that the State had no jurisdiction over municipal records; they cited Attorney General Opinion No. 61-36; and

**WHEREAS**, Attorney General Opinion No. 61-36 dated May 3, 1961 concluded that no State agency had the power to prescribe regulations for the retention and destruction of municipal records; that municipalities are required to make or keep records that are required by State law, however, records made or kept by the municipality under its own authority and for its own purposes may be disposed of as the municipality sees fit; what the municipality has power to create, it has power to destroy, but what is created by the State, or by authority of the State, can only be destroyed by the State, or with its permission; and

**WHEREAS**, State Records and Archives has also stated their current position is that they do not provide municipalities with destruction authorization or approval; therefor, the Town Council may authorize and approve the destruction of Town records; and

**WHEREAS**, the General Counsel of the New Mexico Municipal League has informed New Mexico municipal clerks that municipalities may continue to use the Records Retention and Disposition Schedules that were repealed by State Records and Archives or they can adopt the State's new schedules or they can create and adopt their own records retention and disposition schedules; and

**WHEREAS**, a thorough review and comparison of municipal records listed in the State Records Center's new Functional Records Retention and Disposition Schedules and the repealed Records Retention and Disposition Schedules has been completed by the Town Clerk / Records Custodian of the Town of Silver City; and

**WHEREAS**, the Town Council of the Town of Silver City has determined that the repealed schedules continue to be more suitable for the Town's records management;

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF SILVER CITY, NEW MEXICO**, that:

1. the Town Clerk is the official custodian of public records for the Town of Silver City; and
2. the Town of Silver City shall continue to utilize the repealed Records Disposition and Destruction Schedules as a guide to records retention, and determine at a future time whether to create or adopt customized schedules that are specific to municipal records.

**PASSED, APPROVED AND ADOPTED** this 10th day of January, 2017.

(Seal)

/s/

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Ken Ladner, Mayor

Attest:

/s/

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Ann L. Mackie, Town Clerk