

**AN ORDINANCE AMENDING ARTICLE 2-3 OF THE UTAH COUNTY CODE
RELATING TO GOVERNMENT RECORDS ACCESS AND MANAGEMENT**

The County Legislative Body of Utah County ordains as follows:

Part I.

Article 2-3 of the Utah County Code is hereby amended to read as follows:

Article 2-3. Government Records Access and Management

- 2-3-1. In general.
- 2-3-2. Purpose of Article.
- 2-3-3. Definitions.
- 2-3-4. Right of privacy.
- 2-3-5. Classification and Retention of records.
- 2-3-6. Request for records.
- 2-3-7. Establishment of fees.
- 2-3-8. Appeals.
- 2-3-9. Amendment of records.
- 2-3-10. Records officers.
- 2-3-11. Management of records.
- 2-3-12. Justice Court Records.
- 2-3-13. Penalty.



ENT 39610:2016 PG 1 of 24
JEFFERY SMITH
UTAH COUNTY RECORDER
2016 May 05 1:02 pm FEE 0.00 BY MG
RECORDED FOR CLERK AUDITOR

2-3-1. In General.

The Board of County Commissioners of Utah County finds the following:

(a) It is in the best interests of Utah County and the citizens thereof, and essential for the administration of County government, to maintain and preserve accurate governmental records; to provide ready access to records which are defined by law as open to the public; to maintain the security of records which are defined by law as non-public; and to ensure the preservation of vital and historically valuable records.

(b) As the records of Utah County government Agencies are a resource containing information which (1) allows government programs to function; (2) provides officials with a basis for making decisions and ensuring continuity with past operations; and (3) permits citizens to research and document matters of personal and community importance; this resource must be systematically and efficiently managed.

(c) It is the policy of the County that all governmental records, which are defined by applicable Utah statutory and case law as public records, shall be made available to citizens as set forth in this Article.

(d) The County recognizes a public policy interest in allowing the government to restrict

access to certain records, as specified in the Government Records Access and Management Act and this Article, for the public good.

2-3-2. Purpose of Article.

In enacting this Article, it is the purpose and intent of the Board of County Commissioners to provide, in accordance with the Government Records Access and Management Act, Chapter 2 of Title 63G, Utah Code Annotated, 1953, as amended, (hereinafter referred to as "the Act") an ordinance acknowledging and complying with the Act and providing for its application in the County. County Agencies shall comply with the provisions of the Act except for the section of this Article that are contrary to or in addition to the Act, as allowed by the Act, and shall also comply with other federal and state statutory and regulatory record-keeping requirements.

2-3-3. Definitions.

(a) Unless otherwise defined herein, the defined terms in the Act shall have the same meaning in this Article as they have in the Act.

(b) As used in this Article, the following definitions shall be applicable:

(1) "Act" shall refer to the Government Records Access and Management Act, §63G-2-101, et seq., Utah Code Annotated, 1953, as amended.

(2) "Agency" shall refer to any office, department, division, section, staff office, board, committee or other division of Utah County Government.

(3) "Chief Administrative Officer" shall refer to the Utah County Board of Commissioners.

(4) "Data" shall refer to individual entries (for example, birth date, address, etc.) in records.

(5) "Dispose" means to destroy, or render irretrievable or illegible, a record or the information contained in it by any physical, electronic, or other means, including unauthorized deletion or erasure of electronically recorded audio, visual, non-written formats, data processing, or other records.

(6) "Non-public" records shall refer to those records defined as private, controlled, or protected under the provisions of this Article and of the Act.

2-3-4. Right of privacy.

(a) The County recognizes and upholds the personal right of privacy retained by persons who may be the subject of governmental records. The County also recognizes that the Act and Utah case law establish a presumption that governmental records will generally be considered open and public, with certain specific exceptions. In circumstances where a record's public or non-public status is not specifically established by the Act or another statute, by this Article, or by policies established or designations made under this Article, the public's right to access and the record subject's right of privacy must be compared. The County shall not release any records when to do so would constitute a clearly unwarranted invasion of personal privacy.

(b) The County may, as determined appropriate by the Agency director of the Agency responding to a request for records, notify the subject of a record that a request for access to the subject's record has been made.

2-3-5. Classification and Retention of records.

(a) All County records and records series, of any format, shall be evaluated, designated and classified under the supervision of the County Records Officer according to the provisions of this Article and Part 3 of the Act, as amended.

(b) All County records and records series, of any format, shall be scheduled for retention under the supervision of the County Records Officer and according to the provisions of the Act and this Article. Utah County shall retain its records in compliance with the County General Retention Schedule created and maintained by the Utah Division of Archives and Records Service unless and until the County adopts a records retention schedule. The County may designate or redesignate or classify or reclassify records or data at any time and is not required to classify a particular record or item of data until access thereto is requested. Any records or record series generated in the future shall also be so designated, classified and scheduled for retention. Designation, classification and retention scheduling forms and guidelines may be prepared and promulgated by the Records Officer.

(c) Each Agency shall receive, store, and preserve County records and provide reasonable access thereto as may be calculated to accurately and safely maintain County records during the retention period in compliance with this Article and the Act.

(d) The County retains and reserves to itself the right to use any type of format for the storage, retention and retrieval of government records, including but not limited to, imaging or electronic information storage or processing equipment or systems.

(e) The methods of access to records in non-written formats or data processing systems shall be as determined appropriate by the Agency director of the Agency maintaining the records, considering all circumstances.

2-3-6. Request for records.

(a) Under circumstances in which an Agency is not able to immediately respond to a records request, the requester shall submit a records request through the State of Utah web-based Open Records Portal or fill out and present to the Agency a written request in compliance with the Act. For written requests, the date and time of the request shall be noted on the written request form and all deadlines provided under this Article and the Act shall commence from that time and date. For requests submitted through the Records Portal, the deadlines provided under this Article and the Act shall be calculated within the Records Portal.

(b) Requesters of non-public information shall adequately identify themselves and, if applicable, their status when requesting access to non-public records.

(c) Any County record which is subject to litigation, criminal investigation or audit or has been requested in accordance with this Article and the Act, that is disposable by approved retention schedule, may not be disposed of until the litigation or audit has been resolved or the request is granted and fulfilled, or sixty days after the request is denied if no appeals are filed, or sixty days after all appeals are completed.

2-3-7. Establishment of fees.

(a) Utah County or any of its Agencies may charge a reasonable fee to cover the actual

cost of duplicating a record or compiling a record in a form other than that maintained by the Agency.

(b) All fees charged hereunder shall be consistent with the Act and the adopted Utah County Fee Schedule.

(Ord. No. 1995-18, 7-31-95; Ord. No. 1995-19, 8-30-95)

2-3-8. Appeals.

(a) Utah County adopts the Appeal procedure from Part 4 of the Act, as amended, with the following amendments or additions to provide for the specific appeal procedure in Utah County and recognizing that in some respects Utah County has limited resources that necessitate the time frames provided for herein:

(1) A requester or interested party may appeal an access denial or County claim of extraordinary circumstances, including the date for compliance, to the County's chief administrative officer, by filing a written notice of appeal, satisfying the requirements of a notice of appeal in the Act, with the chairperson of the Utah County Board of Commissioners within 30 calendar days of the denial.

(2) The chief administrative officer shall, within five business days of receipt of the notice of appeal, enter its decision on the appeal or schedule the appeal for an administrative hearing to be held within 15 business days of receipt of the notice of appeal.

(3) If the appeal involves a record that is the subject of a business confidentiality claim under the Act, an administrative hearing shall be scheduled.

(4) If an administrative hearing is held, the chief administrative officer shall provide adequate notice to the requester, interested party or business confidentiality claimant with the date, time, and location of the hearing where they will have an opportunity to be heard concerning the appeal and within five business days of holding the hearing, enter its decision on the appeal.

(5) Failure of the chief administrative officer to issue a decision or schedule an administrative hearing within five business days of receiving the notice of appeal, or failure to issue a decision within five business days of the administrative hearing, is the equivalent of affirming the access denial.

(6) The chief administrative officer shall send written notice of its decision to all participants.

(7) If the chief administrative officer's decision is to affirm the access denial in whole or in part, the notice required herein shall satisfy the requirements of the Act.

(b) If the decision of the chief administrative officer is to affirm the access denial in whole or in part, the requester or interested party may appeal the decision to the Utah State Records Committee or petition for judicial review of the decision in state district court in accordance with the Act.

2-3-9. Amendment of records.

(a) Records held by the County may be amended or corrected as needed, in accordance with the Act. Requests for amendments, corrections, or other changes shall be made in writing to the Agency having custody of the records and setting forth, with specificity, the amendment or

correction requested and the reason for the change. When necessary, County shall comply with the Open and Public Meetings Act before amending a record. When an amendment or correction of a government record is made, generally both the original record and the amended or corrected record shall be retained, unless the nature of the record indicates otherwise or as may be provided by policies and procedures adopted under the provisions of this Article.

(b) This Section does not apply to records relating to title to real or personal property, medical records, judicial case files, or any other records that the County Commission determines must be maintained in their original form to protect the public interest and to preserve the integrity of the record system.

(c) Denials of requests to amend records may be appealed following the appeal procedure provided by this Article.

2-3-10. Records officers.

(a) There shall be appointed a County Records Officer to oversee and coordinate records access and management and County archives activities. The Records Officer shall make annual reports of records services activities to the Board of County Commissioners.

(b) The Board of County Commissioners may hereafter create a Government Records Access and Management Policy Administration ("Records Policy Administration"), to be chaired by the County Records Officer. Members of the Records Policy Administration, if created, would include representatives from the Commission staff, the County departments, and from the elected offices. The Records Policy Administration, if created, would establish meeting times and policies as needed, and as determined by the County Records Officer.

(c) Each Agency of County government shall appoint a Records Representative to assist with and be directly responsible for the implementation of this Article. Regular training shall be provided under the direction of the Records Officer to Agency Records Representatives.

(d) The Records Officer shall develop and provide records management, maintenance and access standards, policies and procedures, as approved by the Board of County Commissioners, to govern and implement the provisions of the Act and this Article. Copies of any rule or policy promulgated under this Article shall be forwarded by the County Records Officer to the Utah State Division of Archives within thirty (30) days after its effective date. Any Agency's internal policies regarding records management and access shall be consistent with this Article and state law.

2-3-11. Management of records.

(a) Records management procedures shall be developed to ensure that due care is taken to maintain and preserve County records safely and accurately during the retention period for each classification of record. The Records Officer shall work with County departments to ensure the care, maintenance, scheduling, disposal, classification, designation, access, and preservation of records. The Records Officer shall be responsible for monitoring the application and use of technical processes in the creation, duplication, and disposal of County records and shall monitor compliance with required standards of quality, permanence, and admissibility pertaining to the creation, use, and maintenance of records. Policies and regulations regarding types and formats of papers, inks, electronic media, and other records and information storage media, materials,

equipment, procedures and techniques shall be developed and promulgated, subject to the approval of the Board of County Commissioners.

(b) Custodians of any County records shall, at the expiration of their terms of office, appointment or employment, deliver custody and control of all records kept or received by them to their successors, supervisors, or to the County Records Officer.

2-3-12. Justice Court Records.

Records activities of the County Justice Court system shall comply with and be governed by §63G-2-702 of the Act.

2-3-13. Penalty.

Knowing violation of this Article is a misdemeanor, punishable as set forth in this Code of Ordinances or the Act.

Part II:

Insert-pages reflecting the above amendments, including a title page which bears the enactment date of this ordinance, are hereby ordered to be filed in the copy of the Utah County Code which is on file with the Utah County Clerk/Auditor.

Part III:

If any of the sections, sentences, clauses or provisions of this ordinance shall for any reason be adjudged inapplicable or invalid by a court of competent jurisdiction, such shall not affect or invalidate the remaining portion contained herein.

Part IV:

This ordinance shall become effective fifteen (15) days after its passage, and upon at least one (1) publication in a newspaper published in and having general circulation in Utah County.

PASSED and ordered published this 19th day of April, 2016.

**BOARD OF COUNTY COMMISSIONERS
UTAH COUNTY, UTAH**

VOTE



LARRY A. ELLERTSON, CHAIR

Aye



WILLIAM C. LEE, COMMISSIONER

Aye



GREG GRAVES, COMMISSIONER

Aye

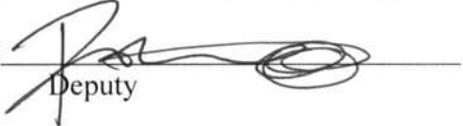
ATTEST:
BRYAN E. THOMPSON
County Clerk/Auditor

By: 

Deputy

APPROVED AS TO FORM:
JEFFREY R. BUHMAN
Utah County Attorney

Approved Disapproved

By: 

Deputy

Date of Publication: Once only, as soon as possible

Article 2-3. Government Records Access and Management

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(b) Requesters of non-public information shall adequately identify themselves and, if applicable, their status when requesting access to non-public records.

(c) Any County record which is subject to litigation, criminal investigation or audit or has been requested in accordance with this Article and the Act, that is disposable by approved retention schedule, may not be disposed of until the litigation or audit has been resolved or the request is granted and fulfilled, or sixty days after the request is denied if no appeals are filed, or sixty days after all appeals are completed.

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(2) The chief administrative officer shall, within five business days of receipt of the notice of appeal, enter its decision on the appeal or schedule the appeal for an administrative hearing to be held within 15 business days of receipt of the notice of appeal.

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(6) The chief administrative officer shall send written notice of its decision to all participants.

(7) If the chief administrative officer's decision is to affirm the access denial in whole or in part, the notice required herein shall satisfy the requirements of the Act.

(b) If the decision of the chief administrative officer is to affirm the access denial in whole or in part, the requester or interested party may appeal the decision to the Utah State Records Committee or petition for judicial review of the decision in state district court in accordance with the Act.

2-3-9. Amendment of records.

(a) Records held by the County may be amended or corrected as needed, in accordance with the Act. Requests for amendments, corrections, or other changes shall be made in writing to the Agency having custody of the records and setting forth, with specificity, the amendment or correction requested and the reason for the change. When necessary, County shall comply with the Open and Public Meetings Act before amending a record. When an amendment or correction of a government record is made, generally both the original record and the amended or corrected record shall be retained, unless the nature of the record indicates otherwise or as may be provided by policies and procedures adopted under the provisions of this Article.

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- Deleted: 2-3-4. Right of access.¶
- 2-3-5. Classification of records.¶
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- Deleted: 7
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- Deleted: 2-3-11. Access to persons with disabilities.¶
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- Deleted: 2-3-13. Liability for release of records.¶
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- Deleted: Maintenance
- Deleted: 2-3-16. Preservation of records.¶
- 2-3-17. Storage of records.¶
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Deleted: (hereinafter referred to as "the Act")

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2-3-5. Classification and Retention of records.

(a) All County records and records series, of any format, shall be evaluated, designated, and classified under the supervision of the County Records Officer according to the provisions of this Article and Part 3 of the Act, as amended.

(b) All County records and records series, of any format, shall be scheduled for retention under the supervision of the County Records Officer and according to the provisions of the Act and this Article. Utah County shall retain its records in compliance with the County General Retention Schedule created and maintained by the Utah Division of Archives and Records Service unless and until the County adopts a records retention schedule. The County may designate or redesignate or classify or reclassify records or data at any time and is not required to classify a particular record or item of data until access thereto is requested. Any records or record

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series generated in the future shall also be so designated, classified and scheduled for retention. Designation, classification and retention scheduling forms and guidelines may be prepared and promulgated by the Records Officer.

(c) Each Agency shall receive, store, and preserve County records and provide reasonable access thereto as may be calculated to accurately and safely maintain County records during the retention period in compliance with this Article and the Act.

(d) The County retains and reserves to itself the right to use any type of format for the storage, retention and retrieval of government records, including but not limited to, imaging or electronic information storage or processing equipment or systems.

(e) The methods of access to records in non-written formats or data processing systems shall be as determined appropriate by the Agency director of the Agency maintaining the records, considering all circumstances.

2-3-6. Request for records.

(a) Under circumstances in which an Agency is not able to immediately respond to a records request, the requester shall submit a records request through the State of Utah web-based Open Records Portal or fill out and present to the Agency a written request in compliance with the Act. For written requests, the date and time of the request shall be noted on the written request form and all deadlines provided under this Article and the Act shall commence from that time and date. For requests submitted through the Records Portal, the deadlines provided under this Article and the Act shall be calculated within the Records Portal.

(b) Requesters of non-public information shall adequately identify themselves and, if applicable, their status when requesting access to non-public records.

(c) Any County record which is subject to litigation, criminal investigation or audit or has been requested in accordance with this Article and the Act, that is disposable by approved retention schedule, may not be disposed of until the litigation or audit has been resolved or the request is granted and fulfilled, or sixty days after the request is denied if no appeals are filed, or sixty days after all appeals are completed.

2-3-7. Establishment of fees.

(a) Utah County or any of its Agencies may charge a reasonable fee to cover the actual cost of duplicating a record or compiling a record in a form other than that maintained by the Agency.

(b) All fees charged hereunder shall be consistent with the Act and the adopted Utah County Fee Schedule.

(Ord. No. 1995-18, 7-31-95; Ord. No. 1995-19, 8-30-95)

2-3-8. Appeals.

(a) Utah County adopts the Appeal procedure from Part 4 of the Act, as amended, with the following amendments or additions to provide for the specific appeal procedure in Utah County and recognizing that in some respects Utah County has limited resources that necessitate the time frames provided for herein:

(1) A requester or interested party may appeal an access denial or County claim of extraordinary circumstances, including the date for compliance, to the County's chief

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administrative officer, by filing a written notice of appeal, satisfying the requirements of a notice of appeal in the Act, with the chairperson of the Utah County Board of Commissioners within 30 calendar days of the denial.

(2) The chief administrative officer shall, within five business days of receipt of the notice of appeal, enter its decision on the appeal or schedule the appeal for an administrative hearing to be held within 15 business days of receipt of the notice of appeal.

(3) If the appeal involves a record that is the subject of a business confidentiality claim under the Act, an administrative hearing shall be scheduled.

(4) If an administrative hearing is held, the chief administrative officer shall provide adequate notice to the requester, interested party or business confidentiality claimant with the date, time, and location of the hearing where they will have an opportunity to be heard concerning the appeal and within five business days of holding the hearing, enter its decision on the appeal.

(5) Failure of the chief administrative officer to issue a decision or schedule an administrative hearing within five business days of receiving the notice of appeal, or failure to issue a decision within five business days of the administrative hearing, is the equivalent of affirming the access denial.

(6) The chief administrative officer shall send written notice of its decision to all participants.

(7) If the chief administrative officer's decision is to affirm the access denial in whole or in part, the notice required herein shall satisfy the requirements of the Act.

(b) If the decision of the chief administrative officer is to affirm the access denial in whole or in part, the requester or interested party may appeal the decision to the Utah State Records Committee or petition for judicial review of the decision in state district court in accordance with the Act.

2-3-9. Amendment of records.

(a) Records held by the County may be amended or corrected as needed, in accordance with the Act. Requests for amendments, corrections, or other changes shall be made in writing to the Agency having custody of the records and setting forth, with specificity, the amendment or correction requested and the reason for the change. When necessary, County shall comply with the Open and Public Meetings Act before amending a record. When an amendment or correction of a government record is made, generally both the original record and the amended or corrected record shall be retained, unless the nature of the record indicates otherwise or as may be provided by policies and procedures adopted under the provisions of this Article.

(b) This Section does not apply to records relating to title to real or personal property, medical records, judicial case files, or any other records that the County Commission determines must be maintained in their original form to protect the public interest and to preserve the integrity of the record system.

(c) Denials of requests to amend records may be appealed following the appeal procedure provided by this Article.

2-3-10. Records officers.

(a) There shall be appointed a County Records Officer to oversee and coordinate records

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Deleted: director of the involved agency, who shall immediately notify the County Records Officer. The Records Officer shall institute the initial convening of the hearing board within 10 business days after the date the written notice of appeal is received.

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Deleted: The Records Officer shall send a written notice by certified mail of the date and location of the hearing to the requested, and notice to members of the hearing board and the director of the involved agency. The hearing shall be conducted in accordance with policies adopted by the County Commission and with the Utah Open Meetings Act.

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access and management and County archives activities. The Records Officer shall make annual reports of records services activities to the Board of County Commissioners.

(b) The Board of County Commissioners may hereafter create a Government Records Access and Management Policy Administration ("Records Policy Administration"), to be chaired by the County Records Officer. Members of the Records Policy Administration, if created, would include representatives from the Commission staff, the County departments, and from the elected offices. The Records Policy Administration, if created, would establish meeting times and policies as needed, and as determined by the County Records Officer.

(c) Each Agency of County government shall appoint a Records Representative to assist with and be directly responsible for the implementation of this Article. Regular training shall be provided under the direction of the Records Officer to Agency Records Representatives.

(d) The Records Officer shall develop and provide records management, maintenance and access standards, policies and procedures, as approved by the Board of County Commissioners, to govern and implement the provisions of the Act and this Article. Copies of any rule or policy promulgated under this Article shall be forwarded by the County Records Officer to the Utah State Division of Archives within thirty (30) days after its effective date. Any Agency's internal policies regarding records management and access shall be consistent with this Article and state law.

2-3-11. Management of records.

(a) Records management procedures shall be developed to ensure that due care is taken to maintain and preserve County records safely and accurately during the retention period for each classification of record. The Records Officer shall work with County departments to ensure the care, maintenance, scheduling, disposal, classification, designation, access, and preservation of records. The Records Officer shall be responsible for monitoring the application and use of technical processes in the creation, duplication, and disposal of County records and shall monitor compliance with required standards of quality, permanence, and admissibility pertaining to the creation, use, and maintenance of records. Policies and regulations regarding types and formats of papers, inks, electronic media, and other records and information storage media, materials, equipment, procedures and techniques shall be developed and promulgated, subject to the approval of the Board of County Commissioners.

(b) Custodians of any County records shall, at the expiration of their terms of office, appointment or employment, deliver custody and control of all records kept or received by them to their successors, supervisors, or to the County Records Officer.

2-3-12. Justice Court Records.

Records activities of the County Justice Court system shall comply with and be governed by §63G-2-702 of the Act.

2-3-13. Penalty.

Knowing violation of this Article is a misdemeanor, punishable as set forth in this Code of Ordinances or the Act.

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Deleted: All County records which constitute an intellectual property right shall remain the property of the County unless federal or state legal authority provides otherwise. All other records shall be the property of the State of Utah. Property rights to County records may not be permanently transferred from the County to any private individual or entity, including those legally disposable obsolete County records of County Archives or other agencies. This prohibition does not include the providing of record copies for release or distribution under this Article. All records disposals shall be conducted in accordance with policies and procedures.¶
(c)

Deleted: (d) All records which are in the possession of any County agency shall, upon termination of activities of such agency, be transferred to any successor agency or to the County Archives, provided that such transfer is consistent with the formal provisions of such termination.¶

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It is the responsibility of each County agency to receive, store, and preserve County agency records and other materials and to store and to provide reasonable access thereto as may be calculated to accurately and safely maintain County records over a long term in compliance with this Article and the Act.¶

2-3-17. Storage of records.¶
(a) The County retains and reserves to itself the right to use any type of non-verbal or non-written formats for [... [22]

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Utah County

ADMINISTRATION

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(f) "Designate" or "designation" means to give an initial or primary classification to a record or record series indicating the likely classification that a majority of such records or record series would be given if classified.

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(i) "Private" records shall refer to those records classified as private under the provisions of this Article and of the Act.

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(j) "Protected" records shall refer to those records classified as protected under the provisions of this Article and of the Act.

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(k) "Public" records shall refer to those records which have not been classified as non-public in accordance with the provisions of this Article and of the Act.

(l) (1) "Record" means all books, letters, documents, papers, maps, plans, photographs, films, cards, tapes, recordings, or other documentary materials, and electronic data regardless of physical form or characteristics, prepared, owned, used, received, or retained by the County where all the information in the original is reproducible by some mechanical, electronic, photographic or other means.

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(2) "Record" does not mean:

(A) Temporary drafts or similar materials prepared for the originator's personal use or prepared by the originator for the personal use of a person for whom he is working;

(B) Materials that are legally owned by an individual in his private capacity;

(C) Materials to which access is limited by the laws of copyright or patent, unless owned by the County;

(D) Junk mail or commercial publications received by the County or by an officer or employee of the County;

(E) Books and other materials that are catalogued, indexed, or inventoried and contained in the collections of County libraries open to the public, regardless of physical form or characteristics of the material;

(F) Personal notes or daily calendars prepared by any County employee for personal use or the personal use of a supervisor or such notes, calendars or internal memoranda prepared for the use of an officer or agency acting in a quasi-judicial or deliberative process or pursuant to matters discussed in a meeting closed pursuant to Utah Open Meetings Act; or

(G) Proprietary computer software programs as defined in Subsection (c) above that are developed or purchased by or for the County for its own use.

2-3-4. Right of access.

(a) Members of the public shall have the right to see, review, examine and take copies, in any format maintained by the County and subject to Section 2-3-17 hereof, of all County

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governmental records designated as "public" under the provisions of this Article and of the Act and any policies and procedures developed hereunder.

(b) The County has no obligation to create a record or record series in response to a request from a member of the public, if the record requested is not otherwise regularly maintained or kept.

(c) When a record is temporarily held by a custodial county agency, pursuant to that custodial agency's statutory and ordinance functions, such as records storage, investigation, litigation or audit, the record shall not be considered a record of the custodial agency for the purposes of this Article. The record shall be considered a record of the agency or agencies which usually keeps or maintains that record and any requests for access to such records shall be directed to that agency or agencies, rather than the custodial agency, pursuant to procedures established by the County.

2-3-5. Classification of records.

(a) Public records shall be those County records as defined in the Act, §63-2-301 (Utah Code Annotated, 1953, as amended) as public. Public records shall be made available to any person. All County records are considered public unless they are expressly classified otherwise in accordance with policies and procedures established under this Article and the Act or are made non-public by the Act or other applicable law.

(b) Private records shall be those County records classified as "private", as defined in the Act, §63-2-302 (Utah Code Annotated, 1953, as amended) and as classified and defined in procedures established pursuant to this Article and in accordance with the Act. Private records shall be made available to the following persons: the subject of the record, the parent or legal guardian of an unemancipated minor who is the subject of a record, the legal guardian of an incapacitated individual who is the subject of the record, any person who has a power of attorney or a notarized release dated not more than 90 days prior to the request from the subject of the record or his legal representative, or any person possessed of and serving a legislative subpoena or a court order issued by a court of competent jurisdiction.

(c) Controlled records shall be those County records classified as "controlled", as defined in the Act, §63-2-303 (Utah Code Annotated, 1953, as amended) and as classified and defined in procedures established in this Article and in accordance with the Act. ~~Controlled records shall be made available to a physician, psychologist, or licensed social worker who~~ submits a notarized release dated not more than 90 days prior to the request from the subject of the record or any person presenting a legislative subpoena or a court order issued by a court of competent jurisdiction.

(d) Protected records shall be those County records classified as "protected", as defined in the Act, §63-2-304 (Utah Code Annotated, 1953, as amended) and as classified and defined in procedures established in this Article and in accordance with the Act. Protected records shall be made available to the person who submitted the record, to a person who has power of attorney or notarized release dated not more than 90 days prior to the request from any persons or governmental entities whose interests are protected by the classification of the record, or to any person presenting a legislative subpoena or a court order regarding the release of the information issued by a court of competent jurisdiction.

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, in accordance with the Act and procedures established in this Article. Under circumstances and procedures established by this Article, certain items of data may be rendered non-public, although other items of data in the record, or the record itself, may be classified public.

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Records designation, classification and scheduling for retention shall be conducted under the supervision of and proposed schedules submitted to the County Records Officer who shall be assisted by a Records Classification and Retention Review Committee consisting of the Records Officer or designee and the agency director of the agency in charge of the record in question, or designee. Assistance may be requested from the County Attorney as needed.

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on forms provided by the County

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(b) An agency may respond to a request for a record by approving the request and providing the records, denying the request, or such other appropriate response as may be established by policies and procedures. If a written request is denied in whole or in part, the agency shall provide a notice of denial to the requester. The denial notice shall include the reasons for denial and information regarding the appeals process and such other information as may be required by this Article and the Act.

(c) (1) An agency shall respond to a written request for a record as soon as reasonably possible, but no later than ten business days after receiving the request or five business days after receiving a request if the requester satisfactorily demonstrates that an expedited response time primarily benefits the public at large, rather than the requester individually. A requester seeking records for publication or broadcast purposes is presumed to be acting primarily for the benefit of the public at large.

(2) The following extraordinary circumstances shall justify an agency's failure to timely respond to a written request for a record and shall extend the time for response thereto to that time reasonably necessary to respond to the request, as determined by the agency director. Extraordinary circumstances include:

(A) The agency, another agency, or some other governmental entity is currently and actively using the record requested;

(B) The record requested is for either a voluminous quantity of records or requires the agency to review a large number of records or perform extensive research to locate the materials requested;

(C) The agency is currently processing either a large number of records requests or is subject to extraordinary seasonal work loads in the processing of other work;

(D) The release of a record involves legal issues that require an agency to seek legal counsel for analysis of applicable laws;

(E) The request involves extensive editing to separate public data in a record from that which is not public; or

(F) Providing the information requested requires computer programming

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or other format manipulation.

(3) When a timely response cannot be made to a record request, the agency shall notify the requester that it cannot immediately approve or deny the request because of one of the extraordinary circumstances listed above, and provide an explanation of the circumstances and an estimate of the time required to respond to the request. If the agency fails to provide the requested record within the estimated time, that failure shall be considered a denial of the request.

(d) The failure or inability of an agency to respond to a request for a record within the time frames set out herein, or the agency's denial of such a request, shall give the requester the right to appeal as provided in Section 2-3-10.

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(f) In response to a request for access, an agency may redesignate or reclassify the record or segregate data in the requested record in accordance with this Article and the Act.

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(b) An agency may fulfill a record request without charge and is encouraged to do so when it determines that:

- (1) releasing the record primarily benefits the public rather than a person;
- (2) the individual requesting the record is the subject of the record; or
- (3) the requester's rights are directly implicated by the information in the record,

and the requester is impecunious.

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policies adopted by the County

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FEES CONSISTENT WITH THE ACT AND THE UTAH COUNTY FEE SCHEDULE

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(d) The Utah County Recorder's Office shall collect a fee in the amount of \$2.00 per copy for copies of section maps and a fee in the amount of \$4.00 per copy for copies of large subdivision and annexation maps.

(e) The Utah County Microfilm and Records Office shall collect a fee in the following amounts:

- (1) \$5.00 for time spent researching County records in excess of 15 minutes and less than one half hour;
- (2) \$10.00 for each half hour thereafter; and
- (3) \$0.10 per pound for shredding state records.

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Persons aggrieved by the County's classification of a record or by an agency's response to a record request may request and be granted an initial administrative appeal of that grievance, in accordance with County policies. An initial administrative appeal may be made, at the requester's option, to a hearing board convened pursuant to such policies

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the Utah County Board of Commissioners,

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A requester who is aggrieved by the hearing board decision or who prefers to proceed directly to a hearing before the County Commission may file an appeal with the Chair of the Board of County Commissioners.

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(2) A County Commission review of the appeal shall be initially convened within 21 days following the decision of the hearing board or other appeal request.

(3) Notices and staff assistance regarding the County Commission hearing shall be provided by the County Records Officer and shall be provided as set out in subsection (a) above and in policies and procedures.

(4) Failure of the Board of County Commissioners to issue a written decision within five (5) days after conclusion of the hearing grants to the requester the right to carry the appeal to the District Court.

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If you are so inclined, to help resolve a potentially sticky issue please review 63G-2: 402, 701(5)(c)(iv), 701(6)(a). Who can a requester appeal the decision of a chief administrative officer to, the records committee only or the district court also? Thanks,

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(5) The appeal of a decision of the Board of County Commissioners may be made to the District Court, in accordance with the Act and the Utah Rules of Civil Procedure.[pj1]

(c) The appellant shall set forth in writing the nature and date of the request, attaching a copy of the request form, if available, and setting out the basis and legal authority for the request.

(d) The decisions of any hearing board or the Board of County Commissioners regarding access to or classification of records shall be forwarded to the County Records Officer for corrective action including any reclassification or designation of data or records which may be necessitated by the appellate decision.

2-3-11. Access to persons with disabilities.

Reasonable accommodations regarding access to governmental records shall be provided to persons with disabilities in accordance with policies developed under this Article.

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2-3-13. Liability for release of records.

(a) A County employee or other person having lawful custody of County records who knowingly refuses to permit access to records in accordance with the Act and this Article, or who permits access to non-public records knowing that such access is prohibited, or who knowingly, without authorization or legal authority, disposes of, alters, or removes records or allows other persons to do so in violation of the provisions of the Act, this Article, or other law or regulation may be subject to criminal prosecution and disciplinary action, including termination.

(b) In accordance with the Act, neither the County nor any of its agencies, officers or employees shall be liable for damages resulting from the release of a record where the requester presented evidence of authority to obtain the record, even if it may be subsequently determined that the requester had no such authority.

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2-3-16. Preservation of records.

It is the responsibility of each County agency to receive, store, and preserve

County agency records and other materials and to store and to provide reasonable access thereto as may be calculated to accurately and safely maintain County records over a long term in compliance with this Article and the Act.

2-3-17.Storage of records.

(a) The County retains and reserves to itself the right to use any type of non-verbal or non-written formats for the storage, retention and retrieval of government records, including but not limited to audio tapes, video tapes, micro-forms, and any type of computer, data processing, imaging, or electronic information storage or processing equipment or systems, which are not prohibited by state statute, and do not compromise legal requirements for record storage, retrieval, security and maintenance, to store and maintain County records. All computerized and non-written format records and data which are designated and classified in accordance with the Act and this Article, shall be made available to a requester in accordance with this Article and the Act.

(b) The methods of access to records in non-written formats or data processing systems shall be as determined appropriate by the agency director of the agency maintaining the records, considering all circumstances. Access may include but not be limited to the following:

(1) By using a County computer terminal or other viewing or listening device to retrieve data directly from the terminal screen or device; provided, however, that due regard shall be exercised to ensure that any non-public records will not be accessed, retrieved or displayed on the device and that records are not erased or damaged;

(2) By providing paper or "hard" copies of record printouts or by providing magnetic tapes, disks, or other means of electronic storage containing the non-written format or data processing system records; or

(3) By the use, where appropriate, of remote terminals which have access to County computer, data processing or electronic information systems pursuant to a formal two-party contract permitting such remote terminal access and provided that due regard shall be exercised to ensure that non-public records will not be available by remote terminal access.

(c) Computer software programs are not considered a record. Software programs shall not be subject to disclosure under this Article or the Act, including copyrighted software and other copyrighted materials which have been purchased by or licensed to the County and software and other materials which have been copyrighted by the County.