

Chapter 2.36 - RECORDS ACCESS AND MANAGEMENT^[1]**Sections:**

Footnotes:

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Editor's note—Ord. No. 5-2015, § 1, adopted September 15, 2015, amended chapter 2.36 in its entirety to read as herein set out. Former chapter 2.36, §§ 2.36.010—2.36.270, pertained to similar subject matter. See Section 99.05.010, Ordinance List and Disposition Table for complete derivation.

Section 2.36.010 - Short title.

This chapter is known as the "Davis County Records Access and Management Ordinance."

(Ord. 5-2015, § 1, Amended 9/15/2015)

Section 2.36.020 - Adoption of the Utah Government Records Access and Management Act.

The County adopts the Act as well as Utah Code Ann. §§ 63A-12-105 and 63A-12-107, as amended, except for the sections of this chapter that are contrary to or in addition to:

- A. The Act; and
- B. Utah Code Ann. §§ 63A-12-105 and 63A-12-107, as amended.

(Ord. 5-2015, § 1, Amended 9/15/2015)

Section 2.36.030 - Definitions.

As used in this chapter:

- A. "Act" means the Utah Government Records Access and Management Act codified at Utah Code Ann. § 63G-2-101, et seq., as amended.
- B. "Administrative Officer" means the elected official or appointed director of each County office or department.
- C. "Agency" means any office, department, staff, board, committee or other division of Davis County government, any public or private entity which or person who contracts with the County to provide goods or services directly to the County, or any private nonprofit entity that receives funds from the County.
- D. "Chief Administrative Officer" means the County Clerk/Auditor, as the official records custodian for the County.
- E. "Chief Administrative Officer for Appeals" means the current chairperson of the County Commission.
- F. "County Attorney" means the Davis County Attorney and/or the appointed designee(s) of the Davis County Attorney or the Davis County Attorney's office.
- G. "Departmental Records Specialist" means an individual designated by a County officer, director, or department head as a records specialist for a particular County office or department's records.
- H. "Records Supervisor" means the individual designated or appointed by the County Clerk/Auditor to work with State Archivists in the care, maintenance, scheduling, designation, classification, disposal and preservation of County records, and the training of County employees in acceptable

records management practices. The Records Supervisor shall also respond to requests and oversee responses made by County offices and departments.

- I. "Request" means a written request that contains the requesting party's name, mailing address, and daytime telephone number as well as a description of the record(s) requested that identifies the record(s) with reasonable specificity, which is submitted by a requesting party, who is either unassociated with the County or, if associated with the County, is acting in a capacity separate and distinct from the County.
- J. "Requesting party" means the specific individual(s), entity(ies), governmental agency(ies), or otherwise who submit(s) a request to the County.
- K. "Responsible department" means the County office or department that usually keeps or maintains a requested County record, or the County office or department to whom a requested County record should be addressed. "Responsible Department" includes the County employees, agents and appointed or elected officers of that County department or office.
- L. Any terms used in this chapter shall have the same meanings as set forth in Section 103 of the Act, as amended, unless the terms are either defined in this chapter or defined in other chapters of the Davis County Code that are applicable to all chapters comprising the Davis County Code (e.g. Chapter 1.04 General Provisions, as amended).

(Ord. 5-2015, § 1, Amended 9/15/2015)

Section 2.36.040 - Right to inspect County records and receive copies of County records.

The County hereby adopts Section 201 of the Act, as amended, regarding the right to inspect County records and receive copies of County records.

(Ord. 5-2015, § 1, Amended 9/15/2015)

Section 2.36.050 - Access to private, controlled, and protected County records.

The County hereby adopts Section 202 of the Act, as amended, regarding access to private, controlled, and protected County records.

(Ord. 5-2015, § 1, Amended 9/15/2015)

Section 2.36.060 - Fees.

- A. The County hereby adopts Section 203 of the Act, as amended, regarding fees, except as otherwise set forth in this section and/or this chapter.
- B. The County hereby incorporates all applicable fees set forth in Title 2, Chapter 2.48 of the Davis County Code, as amended.
- C. In general, payment of fees in response to a request shall be made in full and at the time the records are made available or delivered to the requesting party. In the event that the County expects the fees in response to a Request to exceed fifty dollars (\$50.00), the County specifically adopts Subsection 203(8) of the Act, as amended.

(Ord. 5-2015, § 1, Amended 9/15/2015)

Section 2.36.070 - Requests and responses.

- A. The County hereby adopts Section 204 of the Act, as amended, regarding Requests, except as otherwise set forth in this section and/or this chapter.
- B.

- Requesting parties shall submit a request to the County and, if possible, direct the request to the responsible department.
- C. The first County office or department to receive a request shall:
1. Date stamp the request with the date that accurately reflects the date when the request was first received;
 2. Promptly forward the request to the receiving County office or department's Departmental Records Specialist;
 3. If the request was submitted by the requesting party to the responsible department, the Departmental Records Specialist shall respond to the request consistent with this chapter and the Act, and, if necessary, confer with the Departmental Records Specialist's Administrative Officer, the Records Supervisor, and/or the County Attorney in responding to the request;
 4. If the request was submitted by the requesting party to a County office or department other than the responsible department, the Departmental Records Specialist for the office or department that initially received the request shall promptly forward the request to the responsible department; and
 5. Once the responsible department has received the request, the request shall be promptly forwarded to the Departmental Records Specialist of the responsible department, who shall respond to the request consistent with this chapter and the Act, and, if necessary, confer with the Departmental Records Specialist's Administrative Officer, the Records Supervisor, and/or the County Attorney in responding to the request.
- D. If a request is, is likely to become, or becomes contested, or if there is any concern regarding the request, the responsible department responding to the request may require that the requesting party provide a written release from the subject of the records, or an authorized representative of the subject of the records, before access to the requested records is provided.
- E. Access to County records shall generally be provided only by and through the responsible department.
- F. The responsible department is not obligated to provide certified copies of any records unless obligated to do so by law.
- G. Notwithstanding anything herein to the contrary or otherwise, this chapter does not apply to a request by one or more County offices or departments to one or more other County offices or departments to obtain certain County records.
- H. In circumstances where a record's public or nonpublic status is not specifically established by the Act, another statute, this chapter, or policies established or designations made under this chapter, the public's right to access and the subject of the record'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, in accordance with the Act and the procedures established in this chapter.
- I. Pursuant to Subsection 307(2) of the Act, as amended, a governmental entity is not required to classify a particular record, record series, or information until access to the record is requested. If the status of a record has not been established at the time of a request, either by Davis County or the County General Schedule, the request shall be scheduled, in accordance to this chapter.

(Ord. 5-2015, § 1, Amended 9/15/2015)

Section 2.36.080 - Denials.

- A. The County hereby adopts Section 205 of the Act, as amended, regarding denials of Requests, except as otherwise set forth in this section and/or this chapter.
- B. Notwithstanding that a request has been denied or that an appeal has been filed with respect to that denial, access may be allowed to one or more records and copies made thereof by the requesting party/parties entitled to access such records who have complied with the requirements of this chapter and the Act.

(Ord. 5-2015, § 1, Amended 9/15/2015)

Section 2.36.090 - Sharing records.

- A. The County hereby adopts Section 206 of the Act, as amended, regarding sharing records.
- B. In addition to the sharing of records authorized and specified by the Act and unless contrary to federal or state law, the County Attorney is specifically authorized to share records with the Utah Department of Corrections, law enforcement agencies, and other prosecutors; the Davis County Auditor is authorized to share records with contracted independent auditors; and the Davis County Assessor is authorized to share records with the Utah State Tax Commission.
- C. A County department shall not release private, protected, or controlled County records to another governmental entity, until an official Davis County Record Sharing Agreement has been completed by the County and signed by the recipient governmental entity.

(Ord. 5-2015, § 1, Amended 9/15/2015)

Section 2.36.100 - Subpoenas—Court ordered disclosure for discovery.

- A. The County hereby adopts Section 207 of the Act, as amended, regarding subpoenas and court ordered disclosure for discovery.
- B. In the event of the service of a subpoena, discovery pleading, or court order regarding the disclosure of records or making records available to designated parties, such subpoena, pleading or order shall be promptly forwarded to the County Attorney for legal analysis, opinion and advice.

(Ord. 5-2015, § 1, Amended 9/15/2015)

Section 2.36.110 - Classification.

- A. The County hereby adopts Sections 301 through 310 of the Act, as amended, regarding classification.
- B. The Records Supervisor, under the direction of the Chief Administrative Officer and with the assistance, as may be required, of the Departmental Records Specialist(s), the applicable Administrative Officer(s), and/or the County Attorney, shall perform the records classification on behalf of the County and shall prepare and promulgate classification forms, rules and guidelines.

(Ord. 5-2015, § 1, Amended 9/15/2015)

Section 2.36.120 - Appeals.

- A. The County hereby adopts Sections 401 through 406 of the Act, as amended, regarding appeals, except as otherwise set forth in this section and/or this chapter.
- B. All appeals made by a requesting party to the County shall be directed to the Chief Administrative Officer for Appeals.

(Ord. 5-2015, § 1, Amended 9/15/2015)

Section 2.36.130 - Collection of information and accuracy of records.

The County hereby adopts Sections 601 through 604 of the Act, as amended, regarding the collection of information and accuracy of records.

(Ord. 5-2015, § 1, Amended 9/15/2015)

Section 2.36.140 - Remedies.

The County hereby adopts Sections 801, 803, and 804 of the Act, as amended, regarding remedies.

(Ord. 5-2015, § 1, Amended 9/15/2015)

Section 2.36.150 - Designation of County Records Supervisor.

- A. The position of Davis County Records Supervisor, within the office of the Chief Administrative Officer, is established.
- B. The Records Supervisor shall be designated by the Chief Administrative Officer.
- C. The duties of the Records Supervisor shall include, but are not limited to, the following:
 1. Review and make recommendations for the development of guidelines, regulations and administration of a County Records Management Program;
 2. Coordinate the County Records Management Program;
 3. Assist in the preparation and maintenance of an inventory of County records;
 4. Provide assistance and training to County personnel for the handling, preservation, retention and management of County records;
 5. Act as the liaison and contact agent for the County with the Utah State Archives and Records Service, Department of Administrative Services, and work with that State agency in the care, maintenance, scheduling, designation, classification, disposal and preservation of County records;
 6. Perform such other services and duties as may be requested by the County Clerk/Auditor regarding records;
 7. Assist County department heads in the screening of requests for records;
 8. Screen requests and provide assistance to department heads with respect to reclassification of records; and
 9. Review all appeals after the initial appeal and issue recommendations to County officers, employees, agents, or representatives for the possible resolution of an appeal.

(Ord. 5-2015, § 1, Amended 9/15/2015)

Section 2.36.160 - Designation of Departmental Records Specialists.

- A. Each Administrative Officer shall designate one or more Departmental Records Specialists to assist the Chief Administrative Officer, the Records Supervisor, and the Administrative Officer in all respects relating to this chapter and the Act. In general, the duties of a Departmental Records Specialist, once designated, shall comprise only a limited portion of the designated employee's entire duties. In certain circumstances, however, much if not all of an employee's duties may be solely duties required of a designated Departmental Records Specialist.
- B. The designation of one or more Departmental Records Specialists by each Administrative Officer shall be done in writing and shall be filed with the Chief Administrative Officer.
- C. The duties of the Departmental Records Specialists shall include, but are not limited to, the following:
 1. Act as a liaison between the Records Supervisor and/or County Attorney and the Departmental Records Specialist's department;
 2. Assist the Records Supervisor in scheduling and updating the Departmental Records Specialist's departmental records;
 - 3.

Attend regular training provided by the Records Supervisor and/or other County representatives pertaining to acceptable records practices in compliance with the Act's guidelines;

4. Receive and respond to records requests received by the Departmental Records Specialist's department and, when necessary, consult with the Records Supervisor and/or the County Attorney regarding a response to a record request; and
5. Under the supervision of the Records Supervisor, oversee and practice proper records retention and disposal procedures in compliance with the Act, the Utah State Archives records management guidelines, this chapter, and the County's applicable policies, procedures, and/or guidelines.

(Ord. 5-2015, § 1, Amended 9/15/2015)

Section 2.36.170 - Rules and policies.

Copies of all rules and policies developed, adopted and promulgated under this chapter shall be submitted by the Records Supervisor to the Utah State Division of Archives and Records Service within thirty (30) days of the effective date of such rules and policies.

(Ord. 5-2015, § 1, Amended 9/15/2015)

Section 2.36.180 - Records to remain County property.

All County records shall remain the property of the County unless applicable federal or state statutory authority relating to a specific record or record series provides otherwise.

(Ord. 5-2015, § 1, Amended 9/15/2015)

Section 2.36.190 - County Clerk/Auditor.

Nothing in this chapter shall be construed to alter or diminish the authority and duties of the County Clerk/Auditor as set forth in state law or other County ordinances and policies with respect to records custody and management.

(Ord. 5-2015, § 1, Amended 9/15/2015)

Section 2.36.200 - Records maintenance and management procedures.

- A. Records maintenance and management procedures shall be developed to ensure that due care is taken to maintain, manage and preserve County records safely and accurately over the long term in a manner consistent with the Act.
- B. The Records Supervisor 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.
- C. 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 Chief Administrative Officer.
- D. The destruction of hard-copy records shall be in compliance with the Act, the Utah State Archives records management guidelines, this chapter, and the County's applicable policies, procedures, and/or guidelines and shall be completed only after a Davis County Destruction Certificate is completed. All signed Davis County Destruction Certificates shall be maintained by the Records Supervisor.

- E. The destruction of electronic records shall be in compliance with the Act, the Utah State Archives records management guidelines, this chapter, and the County's applicable policies, procedures, and/or guidelines. Electronic records may be destroyed without completing a Davis County Destruction Certificate.

(Ord. 5-2015, § 1, Amended 9/15/2015)

Section 2.36.210 - Copyright records.

- A. All County records which constitute an intellectual property right shall remain the property of the County unless federal or state legal authority provides otherwise.
- B. 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.
- C. This prohibition does not include the providing of record copies for release or distribution under this chapter.
- D. All records disposals shall be conducted in accordance with County policies and procedures.

(Ord. 5-2015, § 1, Amended 9/15/2015)

Section 2.36.220 - Termination of position or agency.

- A. Administrative Officers and employees 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 the Chief Administrative Officer, the Records Supervisor, or, at the direction of the Chief Administrative Officer, the Administrative Officers' successor(s).
- B. All records which are in the possession of any Agency shall, upon termination of activities of such Agency, be transferred to the Chief Administrative Officer, the Records Supervisor, or, at the direction of the Chief Administrative Officer, the Agency's successor(s).
- C. All records created using County owned assets or in the course of conducting County business are the property of the County. Such records are subject to the Act, this chapter, and the County's policies, procedures, and guidelines, unless such records are exempt, privileged or otherwise not governed by the Act, this chapter, and/or the County's policies, procedures, and guidelines.

(Ord. 5-2015, § 1, Amended 9/15/2015)

Section 2.36.230 - Storage responsibility.

It is the responsibility of each Administrative Officer to receive, store and preserve the Administrative Officer's office or department 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 chapter and the Act.

(Ord. 5-2015, § 1, Amended 9/15/2015)

Section 2.36.240 - Records format.

The County retains and reserves to itself the right to use any format[s] 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.

(Ord. 5-2015, § 1, Amended 9/15/2015)

Section 2.36.250 - Computer data and software.

- A. All computerized and nonwritten format records and data which are designated and classified in accordance with the Act and this chapter, shall be made available to a Requesting Party in accordance with this chapter and the Act.
- B. The County has the right to store and maintain any and all County records on any type of computer, data processor, or other electronic information storage system which it deems reasonable and appropriate unless otherwise prohibited by state law.
- C. All data and information contained on computers shall, if properly classified in accordance with the Act and this chapter as a public record, be available to a Requesting Party within a reasonable time and at a reasonable cost as determined by the County.
- D. Access to computer information shall be allowed only in the manner determined by the Administrative Officer, the County Information Systems Director, the Chief Administrative Officer, and the County Attorney and may include, but is not necessarily limited to, the following methods:
 1. Allowing the Requesting Party to use a County computer terminal to retrieve and inspect data on the terminal and inspect data on the terminal screen; provided, however, that sufficient precautions be exercised to ensure that any data which might be defined by the Act or this chapter as not being public records shall not be retrieved or displayed on the screen nor able to be printed by the Requesting Party; that any data may not be altered or deleted by the Requesting Party; and that the terminal is available for use without unacceptable hindrance of County functions and needs;
 2. Providing copies of computer printouts or computer tapes, discs, or other means of transmitting information if so requested by the requesting party; provided, however, that appropriate precautions be exercised to ensure that any data or files which may be defined by the Act or this chapter as not being public records will not be retrievable by the requesting party and that appropriate safeguards are taken to avoid contamination of the County computers by the insertion of discs provided by a requesting party;
 3. Providing access to County computer, data processing, or electronic information systems by remote terminals pursuant to a written executed contract allowing such access; provided, however, that appropriate precautions be exercised to ensure that any data or files which may be defined by the Act or this chapter as not being public records will not be retrievable by the requesting party and that appropriate safeguards are taken to avoid contamination of the County computers by the insertion of discs provided by a requesting party.
- E. Computer software, whether for word processing or data management, is not considered a public record or data. Computer software shall not be subject to disclosure under this chapter or the Act. Software shall include, but not be limited to, copyrighted software and other materials which have been purchased by or licensed to the County or which have been developed by the County.
- F. Administrative Officers shall exercise due diligence to protect the security of the County computers, data processors, and electronic information systems including the software, data, files, and other materials contained therein.

(Ord. 5-2015, § 1, Amended 9/15/2015)

Section 2.36.260 - Justice court records.

Records activities of the County justice court system shall comply with and be governed by Section 702 of the Act, as amended.

(Ord. 5-2015, § 1, Amended 9/15/2015)