

## **Rich County Records and Management Ordinance**

The Board of Commissioners for Rich County, Utah repeals prior ordinance 1-92 and its amendment, ordinance 95-912. The Board of Commissioners for Rich County, Utah enacts this ordinance in their place as follows:

### Section 1. Purpose.

It is the purpose and intent of the Board of County Commissioners to set policy and guidelines to:

- A. Manage and maintain the records of the County and provide public access to records consistent with the Government Records and Management Act (GRAMA), as set forth in Chapter 2, Title 63G, Utah Code Ann.;
- B. Provide appropriate access to records which are defined by law as open to the public to requesting persons within a reasonable time and at a reasonable cost as set forth in this chapter;
- C. Provide for and assure that all County offices, officers, employees, agencies and authorities comply with the provisions of this chapter, the Act, and all other applicable federal and state laws, rules, and regulations pertaining to records management and access;
- D. Recognize and uphold the personal right of privacy retained by persons who may be the subject of government records and data as provided by law; and to recognize the public policy interest in allowing the County to restrict access to certain records, as set out in the Act.
- E. Establish and implement an appropriate, reasonable, and effective County records management program.

### Section 2. Definitions.

For the purposes of this ordinance:

- 1. "Act" means the Government Records Access and Management Act as set forth in Title 63G, Chapter 2, Utah Code Ann.
- 2. "Certified" means that a record bears the signature, initials or seal of the County, a County department, office or agency, or a County officer and a statement or

wording which verifies that the instrument is a true and correct copy of a County record.

3. "Chief Administrative Officer" means the Rich County Board of County Commissioners.
4. "Department Head" means the official responsible for the management and supervision of any office or department of the County having custody of the record requested.
5. "Nonpublic record" refers to those records classified as private, controlled or protected under the provisions of this ordinance and of the Act.
6. "Public record" means a record not classified as private, controlled, or protected under the provisions of this ordinance and of the Act.
7. "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.

"Record" does not include (1) 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 the originator is working; (2) materials that are legally owned by an individual in his private capacity; (3) materials to which access is limited by copyright or patent; (4) junk mail or commercial publications received by the County or by an officer or employee of the County; (5) materials that are already catalogued, indexed, or inventoried and contained in the collections of libraries open to the public; (6) personal notes or daily calendars prepared by any County employee for personal use or the personal use of a supervisor, or internal memoranda prepared for the use of an officer or agency acting in a deliberative process or pursuant to matters discussed in a meeting closed pursuant to the Utah Open Meetings Act; (7) proprietary software developed or purchased by the County for its own use.

8. "Responsible department" means each County office, department or agency which usually keeps or maintains a requested record.

### Section 3. Access.

- A. Every person shall have the right to inspect a public record without charge to which access is not lawfully restricted.
- B. Every person shall have the right to take a copy, in any format maintained by the County, of all public records during normal working hours upon payment of any required fee and subject to the provisions of this ordinance and the Act.

- C. Access to records shall only be by and through the responsible department. All requests for access to records shall be directed to the responsible Department Head.
- D. If a record or a copy of a record is given to or temporarily held by a County office, department or agency other than the responsible department, the record shall be deemed to be a record of the responsible department and any request for access to that record shall be directed to the responsible Department Head.
- E. Under circumstances set out by the Act, it may be appropriate to disclose nonpublic County records to persons other than those set out in this chapter. The determination to make that disclosure shall be by the department head of the responsible department and the County Attorney. That disclosure shall be consistent with the Act.
- F. Reasonable accommodations shall be provided to assist persons with disabilities access and inspect requested records.
- G. The County has no obligation to create a record in response to a request from a member of the public if the record requested does not exist and is not regularly kept.

Section 4. Classification of Records.

- A. All records of the County shall be classified as public, private, controlled or protected.
- B. All records shall be deemed public unless expressly classified otherwise or made nonpublic by the Act and this ordinance.
- C. All existing and future County records and record series shall be classified according to the provisions of the Act and this chapter. The County may designate or re-designate or classify or re-classify records or data at any time.
- D. No provision of this ordinance shall require the County to classify a record as private, controlled, or protected; or prevent the County from choosing to grant access to a record.
- E. The County is not required to classify or designate a particular record or item of data until access thereto is requested.
- F. The Department Head for the responsible department, or an employee designated by the Department Head is to make the required classification for any requested record in consultation with the County Attorney's Office.

Section 5. Private records.

- A. Private records shall include those County records classified by the County as private as defined by Utah Code Ann. § 63G-2-305 of the Act.

- B. Private records shall be made available to the following persons: (1) the subject of the record; (2) the parent or legal guardian of a minor who is the subject of the record; (3) a person having power of attorney from the subject of the record; (4) a person who submits a notarized release from the subject of the record dated no more than ninety (90) days before the date the request is made; (5) a healthcare provider, if the request is a medical record and if releasing the record or information in the record is consistent with normal professional practice and medical ethics; or (6) a person serving a legislative subpoena or a court order issued by a court of competent jurisdiction.

Section 5. Controlled records.

- A. Controlled records shall include those county records classified by the County as controlled and as defined by Utah Code Ann. §63G-2-304 of the Act.
- B. Controlled records shall be made available to (1) a physician, psychologist, certified social worker, insurance agent or provider, or a government public health agency upon submission of a release from the subject of the record that is dated no more than ninety (90) days prior to the date the request is made and a signed acknowledgment of the terms of disclosure of controlled information as provided by subsection (C) of this Section; and (2) a person presenting a legislative subpoena or court order issued by a court of competent jurisdiction.
- C. A person who receives a record classified as controlled from the County may not disclose controlled information from that record to any other person.

Section 6. Protected records.

- A. Protected records shall include those County records classified by the County as protected as defined by Utah Code Ann. §63G-2-305 of the Act.
- B. Protected records shall be made available to (1) the person who submitted the record to the County; (2) a person who has power of attorney from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the classification of the record; (3) a person who submits a notarized release from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the classification of the record or from their legal representatives dated no more than ninety (90) days prior to the date of the request; and (4) a person presenting a legislative subpoena or a court order regarding the release of the information issued by a court of competent jurisdiction.

Section 7. Additional permitted disclosure.

- A. The County may disclose or authorize disclosure of private or controlled records for research purposes in accordance with Utah Code Ann. § 63G-2-202(8) of the Act.

B. The County may disclose a private, controlled or protected record to another governmental entity, political subdivision, another state, or the United States as provided by Utah Code Ann. § 63G-2-206 of the Act.

C. The County may, at its discretion, disclose records that are private or protected if the Department Head, in consultation with the County Attorney, determines that there is no interest in restricting access to the record, or that the interests favoring access outweigh the interests favoring restriction of access.

#### Section 8. Requests.

A. Requests for public records that can be easily and quickly fulfilled may be made without a formal written request.

B. All other record requests shall be directed to the County Clerk or to the responsible department where the record is kept. Under circumstances in which the County is unable to immediately respond to a records request or if there is any question as to classification of the record, the requester shall submit a written request on a government GRAMA request form.

C. The request shall include the requester's name and signature, mailing address, daytime telephone number, e-mail address if available, the date of the request and a description of the record requested that identifies the record with reasonable specificity. Requesters of nonpublic records shall provide the County with adequate documentation of their identity and status to justify the release before any nonpublic record will be released.

#### Section 9. Response to request.

A. It is the policy of the County that all records which may be made available to a requesting party shall be made available within a reasonable time after the request and at a reasonable cost as set forth in this chapter.

B. Requests shall be made or forwarded to the responsible department and that department shall be responsible for responding to the request.

C. The responsible department upon whom a request is made may respond to that request for a record by:

1. Approving the request and providing the records;
2. Denying the request;
3. Notifying the requester that the County does not maintain the record;
4. Notifying the requester that the County cannot immediately approve or deny the request;

5. Specifying that the request may not immediately be fulfilled but will be responded to on or before a specific date; or
  6. Forward the request to the correct responsible department if it is not in fact the correct responsible department.
- D. It is the intent of County that all written requests for a public record be fulfilled within ten (10) business days after that request is submitted as may be reasonably possible. Requests that are demonstrated to benefit primarily the public are to be fulfilled within five (5) business days if feasible.
- E. Extraordinary circumstances may exist which shall justify the responsible department's inability or failure to respond to a written request for a public record within ten (10) business days. Such extraordinary circumstances shall extend the intended time for response to thirty (30) business days from the date that the request is made. If an extraordinary circumstance exists, response to the request shall be made as soon as reasonably possible and the requester shall be given a statement of the circumstances causing the delay and an estimate of the amount of time necessary to fulfill the request within ten (10) business days.
- F. Subpoenas and any court pleadings served under the provision of applicable state or federal statutes or rules of civil, criminal or administrative procedure are not deemed written requests under this ordinance or the Act.
- G. The County shall comply with civil, criminal and administrative discovery pleadings in accordance with the provisions of applicable statutes and rules of procedure and not by the provisions of the Act or this ordinance.
- H. 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 immediately forwarded to the County Attorney for legal analysis, opinion and advice.
- I. If the County receives a request for access to a record that contains both information to which the requestor is entitled and information to which the requestor is not entitled, the department head of the responsible department shall allow the requester to inspect and obtain copies of those records to which the requester is entitled but shall deny access to those records to which the requester is not entitled.

#### Section 10. Fees.

- A. Pursuant to Section 63G-2-203, Utah Code, of the Government Records Access and Management Act, each department of the County shall assess and collect the actual costs of fulfilling a request for records in accordance with a fee schedule approved by the County Commission. See Attached Authorized Fee Schedule. The fee shall include the actual costs of duplicating a record, compiling a record in a form other than that maintained by the County, postage, copy costs, and any man hours spent

fulfilling the request, beyond the first fifteen (15) minutes, calculated using the hourly rate of the lowest paid employee capable of fulfilling the request. If an assessed fee is in accordance with the attached fee schedule, no further authorization from the County Commission is necessary.

- B. The department may waive the fee and provide the requested record without charge if the actual costs will not exceed fifteen dollars (\$15.00) and (1) releasing the record will primarily benefit the public rather than a person; (2) the individual requesting the record is the subject of the record; (3) the requester's legal rights are directly affected and the requester is impecunious; or (4) the record is being released to a government entity for a public purpose.
- C. No fee shall be charged for merely inspecting a record.
- D. The County may require payment of past fees and future estimated fees before beginning to process a request if the fees are expected to exceed fifty dollars (\$50.00). Any prepaid amount in excess of actual costs shall be returned with the release of the requested record.

#### Section 11. Denial.

- A. If the responsible department denies the request in whole or in part, the responsible department shall provide a written notice of denial to the requester and state a description of the record requested, classification of that record, a statement that the requester has the right to appeal the denial to the Chief Administrative Officer, the time limits for filing an appeal, and the name and address of the Chief Administrative Officer.
- B. The responsible department shall not destroy or give custody of any record to which access has been denied until the period for an appeal has expired and no appeal has been made or until the completion of the appeals process including judicial appeal.
- C. Notwithstanding that a request for access to a record has been denied or that an appeal has been filed with respect to that denial, access may be allowed to that record and copies made thereof by those requesters entitled to access to that record who have complied with the requirements of this chapter.

#### Section 12. Appeals and review.

- A. Appeals and reviews with respect to purported grievances pertaining to the classification of or access to a County record or to a record's decision are administrative in nature.
- B. Any person purportedly aggrieved by any decision or determination of the County pertaining to the classification of or access to a County record shall have the option to have that decision or determination reviewed by the following methods;

1. Informal appeal to the Department Head of the responsible department;
  2. Appeal to the Board of County Commissioners.
- C. Any person whose request has been denied in whole or in part may seek and should be granted an informal appeal to the department head of the responsible department.
1. A request for an informal appeal shall be in writing.
  2. The request must be submitted to the Department Head.
  3. The Department Head shall act upon the request and give notice of that action to the aggrieved person within five calendar days of the receipt of the request.
- D. An aggrieved person may submit an appeal to the Board of County Commissioners by submitting a written notice within thirty (30) days of the date of the action appealed or the date when notified of the classification of a requested record or of the County's response to that request, whichever is later.
- E. The notice of appeal shall be in writing and signed by the aggrieved person. The written notice shall include:
1. The appellant's name, mailing address, and daytime telephone number;
  2. The release sought; and
  3. A short statement of facts, reasons and basis for the appeal.
- F. The decision of the Board of Commissioners shall be in writing and shall state the findings and reasons upon which the decision is based and include a statement that the appellant has the right to appeal the denial to either the State Records Committee or the District Court within thirty (30) days of the decision, and the business address of the State Records Committee.

Section 13. Amending records.

- A. Records held by the County may be amended or corrected as needed at any time.
- B. The County is not obligated to amend any record even if requested to do so.
- C. Any individual may request the responsible department to amend a record to make the record more accurate or complete. The request shall be in writing and contain the following information:
  1. The requester's name, mailing address and telephone number; and



2. A statement explaining the reasons for amending the record.
- D. When an amendment or correction of a government record is made, generally both the original 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 chapter.
  - E. The department head of the responsible department shall issue a written response approving or denying the request to amend within ten (10) business days after the request for the amendment was received.
  - F. Requests to amend records shall not apply to records relating to title, real or personal property, medical records, assessed values, or other values utilized for tax purposes.

Section 14. County clerk.

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

Section 15. Continuity of records.

- A. 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 Clerk.
- B. 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.

Section 16. Storage responsibility.

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 chapter and the Act.

Section 17. Justice Court.

Records activities of the County justice court system shall comply with and be governed by Section 63G-2-702 of the Act.

Section 18. Authorized Fee Schedule.

The following amounts are to be used by all departments fulfilling requests for government records pursuant to this ordinance and the Government Records and Management Act.

Employee time	Not more than \$11.00 per hour.	Minus the first 15 minutes.
Photocopies	\$0.10	Per copy
Large copies and blueprints	Not more than \$1.00	Per copy
Tapes or discs	\$5.00	Per tape or disc
Traffic accident reports	\$5.00	Per report
Police reports	\$5.00	Per report.
Video footage or dispatch tapes.	\$12.00	Per disc
Postage	Actual costs incurred by County.	

Section 19. Effective Date.

This ordinance shall become effective fifteen (15) days after its passage and upon posting as provided by law.

(Ordinance No. 15-1, enacted July 1, 2015)