

Davis County Ordinance No. 04-96

**DAVIS COUNTY RECORDS
ACCESS AND MANAGEMENT
ORDINANCE**

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Davis County Records Access and Management Ordinance

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DAVIS COUNTY
ORDINANCE NO. 04-96

AN ORDINANCE REPEALING ORDINANCE NO. 06-092; ESTABLISHING COUNTY POLICIES REGARDING THE MAINTENANCE AND PRESERVATION OF PUBLIC RECORDS; PROVIDING PUBLIC ACCESS TO PUBLIC RECORDS; PROVIDING FOR THE CLASSIFICATION OF PUBLIC RECORDS; ESTABLISHING FEES AND PROCEDURES FOR PUBLIC RECORD ACCESS REQUESTS; ESTABLISHING OTHER PROCEDURES REGARDING THE STORAGE OF AND ACCESS TO GOVERNMENTAL COUNTY RECORDS; ESTABLISHING AN APPEALS PROCEDURE FOR ACCESS REQUESTS; CREATING A COUNTY RECORDS TASK FORCE; AND IMPLEMENTING THE GOVERNMENT RECORDS ACCESS AND MANAGEMENT ACT.

The Board of County Commissioners of Davis County, Utah, in a regular meeting, lawful notice of which had been given, finds that Section 63-2-701 the *Government Records Access and Management Act (GRAMA)*, as set forth in Title 63, Chapter 2, *Utah Code Ann.*, enables the county to adopt an ordinance relating to information practices including classification, designation, access, denials, segregation, appeals, management, retention, and amendment of governmental records; that it is the policy of Davis County to implement and comply with the legislative intent of GRAMA as stated in Section 63-2-102 of GRAMA; that Davis County had previously enacted Ordinance No. 06-092 providing for records practices appropriate and authorized under GRAMA; that GRAMA has been amended since 1992; that the needs of the County in a records ordinance have changed since 1992; and that it is in the best interest of Davis County and its citizens to repeal Ordinance No. 06-092 and enact a new ordinance to better implement and comply with the provisions of GRAMA as it has been amended.

Now therefore the Davis Board of County Commissioners ORDAINS as follows:

Section 1. Repeal of Davis County Ordinance No. 06-092

Davis County Ordinance No. 06-092, enacted July 22, 1992, is hereby repealed.

Section 2. This Ordinance shall be known as:

Davis County Records Access and Management Ordinance

Section 3. Policy

It shall be the policy of Davis County to:

- A. Manage and maintain the records of the County and establish and implement information practices such

as classification, designation, access, denials, segregation, appeals, management, retention, and amendment of records in a manner consistent with the legislative intent of the *Government Records and Management Act (GRAMA)*, as set forth in Chapter 2, Title 63, *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 ordinance.
- C. Provide for and assure that all county offices, officers, employees, agencies, and authorities comply with the provisions of this ordinance, 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.
- E. Establish and implement an appropriate, reasonable, and effective county records management program.

Section 4. Definitions

For the purposes of this ordinance:

- A. *Act* means the *Government Records Access and Management Act* as set forth in Title 63, Chapter 2, *Utah Code Ann.*
- B. *Agency* shall refer to any office, department, staff, office, board, committee or other division of Davis County Government, any public or private entity or person which contracts with the county to provide goods or services directly to the county, or any private non-profit entity that receives funds from the county.
- C. *Certified* shall mean 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.
- D. *Chief Administrative Officer* means the Davis County Board of

County Commissioners.

- E. *Non-Public* record shall refer to those records classified as private, controlled, or protected under the provisions of this ordinance and of the Act.
- F. *Responsible Department* shall mean each county office, department, or agency which usually keeps or maintains a requested record or to whom the requested record is addressed. *Responsible department* includes the employees, agents, and appointed or elected officers of that department, office, or agency. A county department creating or forwarding a requested record shall not be deemed to be the *responsible department* for that requested record unless there is no other responsible department. (For example, if one department sends a memorandum to another department in response to that department's inquiry, the department receiving that memorandum shall be the responsible department.)
- G. *This Ordinance* means the Davis County Records Access and Management Ordinance.

Section 5. 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; subject to the provisions of this ordinance, the Act, and any policy or procedure developed under this ordinance or the Act.
- C. No record may be disclosed, inspected or a copy thereof provided to a requester if the record is classified as *private, controlled, or protected* except as otherwise provided in this ordinance and the Act.
- D. Access to records shall only be by and through the responsible department and all requests for access to records shall be directed to the responsible department.
- E. If a record or a copy of a record is given 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.

- F. Under circumstances set out by the Act, it may be appropriate to disclose non-public county records to persons other than those set out in this ordinance. The determination to make that disclosure shall be by the department head of the responsible department and County Records Officer. That disclosure shall be consistent with the Act.

Section 6. Classes of Records

- A. All records of the county shall be classified as *public, private, or protected*.
- B. All records shall be deemed public unless expressly classified otherwise or made non-public by applicable statute, the Act, or this ordinance.
- C. Public records shall include those county records as defined in Section 63-2-201 of the Act. Records that are private, controlled, or protected under the Act and this ordinance and records to which access is restricted pursuant to court rule, and other state statute, federal statute, federal regulation, or by contract or regulation restricting access as a condition of participation in a state or federal program or for receiving state or federal funds are not public records.
- D. Private records shall include those county records classified by the county as *private*; those records defined and listed as private in Section 63-2-302(1) of the Act; and
- (1) Performance evaluations and personal status information such as race, religion, or disabilities concerning a current or former employee of or applicant for employment with the county.
 - (2) Records describing an individual's finances except:
 - (a) Those records described in Subsection 63-2-301(1) of the Act.

- (b) Information provided to the county for the purpose of complying with a financial assurance requirement; or
 - (c) Records that must be disclosed in accordance with other statutes.
- (3) Other records containing data on individuals if the disclosure of those records constitutes a clearly unwarranted invasion of personal privacy.
 - (4) Records provided by the United States or by another government entity that are given to the county with the requirement that the records be managed as private records; provided, however, that the providing entity state in writing that the record is not subject to public disclosure if retained by it.
- E. Controlled records shall include those county records classified by the county as *controlled* and those records defined and listed as controlled in Section 63-2-303 of the Act.
- F. Protected records shall include those county records classified by the county as *protected* and those records defined and listed as protected in Section 63-2-304 of the Act.

Section 7. Classification Procedures

- A. All existing and future county records and record series shall be classified according to the provisions of the Act and this ordinance. The County may designate or redesignate or classify or reclassify records or reclassify records or date at any time and is not required to classify or designate a particular record or item of data until access thereto is requested.
- B. Records classification shall be conducted under the supervision of the County Records Officer assisted, as may be required, by a Classification Review Committee consisting of the County Records Officer or her designee, a representative of the Davis County Attorney's Office, and the department head of the responsible department or that department head's designee.

- C. The County Records Task Force in cooperation with the County Records Officer shall prepare and promulgate classification forms, rules, and guidelines.
- D. The county shall create a new record or new record series only as may be reasonably necessary and appropriate and shall have no obligation to create a new record or new record series in response to a request from a member of the public if the record requested is not otherwise regularly kept or maintained.
- E. The county acknowledges and supports the personal right of privacy retained by persons who may be the subject of government records and therefore:
 - (1) The sensitive nature of particular records which name or allow ready identification of individuals and which deal with matters likely to cause embarrassment shall generally not be classified as public records unless the Classification Review Committee and the County Records Officer determine that the public's right to access demonstrably outweighs the right of privacy in relation to any personal data or records.
 - (2) If the Particular record would otherwise be deemed a public record, the Classification Review Committee and County Records Officer may specify conditions for release or disclosure of the record in accordance with law.

Section 8. Access to Private, Controlled and Protected Records

Subject to the provisions of this ordinance and the Act regarding access procedures, fees, response time, denials, and appeals, access to private, controlled, and protected county records shall be made available and allowed as follows:

- A. Upon request, private records shall be made available only to:
 - (1) The subject of the record.
 - (2) The parent or legal guardian of an unemancipated minor who is the subject of the

record.

- (3) The legal guardian of a legally incapacitated individual who is the subject of the record.
 - (4) An individual having a lawful written power of attorney from the subject of the record; and individual who submits a notarized executed release from the subject of the record or the legal representative of that person, provided that such release was executed and acknowledged not more than 90 days before the date of the request.
 - (5) An individual designated by a court order issued by a court of competent jurisdiction and which order specifies the release of the requested private record to that person.
- B. Upon request, controlled records shall be made available only to:
- (1) A physical, psychologist, or certified social worker who is designated in a notarized executed release from the subject of the record, provided that such a release is dated no more than 90 days prior to the date the request is made and submitted to the county together with a signed statement by such designated physician, psychologist, or certified social worker stating that he may not under state law or this ordinance disclose controlled information from that record to any person including the subject of the record.
 - (2) An individual who is designated by a court order issued by a court of competent jurisdiction of the order specifies the release of the requested controlled record to that designated person.
- C. Upon request, protected records shall be made available only to:
- (1) The person who submitted the record; or
 - (2) Any other individual who has a lawfully executed and acknowledged power of attorney from all persons, governmental entities, or political subdivisions whose interest were sought to be protected by the protected

classification; or submits a properly notarized and executed release from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification or from their legal representatives, provided that such release shall be dated not later than 90 days prior to the date the request is made.

(3) An individual designated by a court order issued by a court of competent jurisdiction and which order specifies the release of the requested protected record to that designated person.

D. Reasonable accommodations regarding access to county records shall be provided to persons with disabilities in accordance with policies developed under this or other applicable ordinance.

Section 9. Requests

A. Subject to the provisions of this ordinance and the Act, requests shall be made and responded to in accordance with the procedures, rules, and forms developed by the Davis County Records Task Force.

B. The county may, as determined appropriate by the department head of the responsible department responding to a request for a county record which is classified as public, notify the subject of the requested record or the legal representative of the subject of a requested record that a request for access to the subject's record has been made.

C. If a request is made for a record which is classified as private, controlled, or protected, the department head of the responsible department responding to a request for a record shall notify the subject of such record or the lawful guardian of such record that the request has been made.

D. If a request is made for a record and either an appeal is taken by the requester regarding the propriety of the classification of the record or denial of access thereto, a controversy arises as to access to the requested record, or circumstances exist in which the requester claims that the public interest in access to the requested record outweighs the privacy interest of the subject of

that record, the department head of the responsible department responding to the request shall notify the subject of the record, or the legal representative of the subject of the record, of the request.

- E. If a request for a record is, is likely to become, or becomes contested, or if there is any concern whatsoever, the department head of the responsible department responding to the request may require that the requester provide a written release from the subject of the records, or the legal representative of the subject of the records, before access to the requested records is provided.
- F. In circumstances where a records public or non-public status is not specifically established by the Act or another statute, this ordinance, or policies established or designations made under this ordinance, the public's right to access and the record's 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, in accordance with the Act and the procedures established in this ordinance.

Section 10. Fees

- A. Fees for copies of records and services shall be charged on a reasonable basis to reimburse the county for the actual costs of duplication and complication of a record in a form other than that regularly maintained by the county. No fees shall be charged to inspect public records.
- B. Fee amounts specified by statute shall be imposed and collected by the responsible department. The responsible department may waive charges if the department head determines that:
 - (1) Releasing the record primarily benefits the public rather than an individual 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.

- C. The county shall charge a fee equivalent to the cost of services provided to an individual and any public or private agency for those individual's or agency's sole personal use. Services or information provided to any individual or any agency for resale shall be charged at the fair market value of such services or information, provided that such fee shall be never less than the full cost incurred by the county in the provision of such information or services.
- D. The County Records Task Force in cooperation with the County Records Officer shall review the full cost of providing records services at least annually and make recommendations to the County Auditor.
- E. The Davis County Commission shall approve all uniform fee schedules for use by all county departments.
- F. Fee schedules shall be uniform throughout the county.
- G. If a request for a record requires extraordinary services, the requester shall be given an estimate of approximate costs before such extraordinary costs are accrued.
- H. Payment of fees shall be required at the time records are made and delivered to the requesting party except that if fees are anticipated to exceed \$50.00, the department from which the record is requested may require payment in advance in full or in part.

Section 11. Responses

- 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 ordinance.
- B. Requests shall be made or forwarded to the responsible department and that department shall be responsible for responding to the request.
- C. If the responsible department is unable, or if the responsible department chooses to require, the requester shall be required to complete and submit

to that department a written request for a record on forms provided by the county. The date and time of the request shall be stated on the request form.

- D. 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; or
 - (5) Specifying that the request may not immediately be fulfilled but will be responded to on or before a specific date.
 - (6) Forward the request to the correct responsible department if it is not in fact the correct responsible department.
- E. It is the intent of county that all written requests for a public record be fulfilled within 10 business days after that request is submitted as may be reasonably possible.
- F. 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 10 business days. Such extraordinary circumstances shall extend the intended time for response to 30 business days from the date that the request is made and shall include the following circumstances:
- (1) The responsible department, another county department or agency, or another governmental entity is using the record requested;
 - (2) The record requested is either voluminous or requires the department, or any other department, to review a large number of records in order to locate the records requested;
 - (3) The responsible department is currently

processing either a large number of requests for records or is engaged in extraordinary current work loads and under the constraints of statutory or contractual deadlines with respect to other services and work;

- (4) The request involves the need for a legal opinion and the analysis of applicable statutes, rules, ordinances, regulations or case law;
 - (5) The request involves extensive editing to segregate public information in a record from that which is not public; or
 - (6) Providing the information in the format requested or separating information from that which is not public requires special services including, but not limited to, computer programming.
- G. If an extraordinary circumstance exists, either as listed in the foregoing subsection or which is determined at the time of the request to be extraordinary by the County Records Officer, response to the request shall be made as soon as reasonably possible and the requester shall be given an estimate of the amount of time necessary to fulfill the request.
- H. 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 Sections 7 or 9 of this ordinance.
- I. The county shall comply with civil, criminal, and administrative discovery pleadings which in accordance with the provisions of applicable statutes and rules of procedures and not by the provisions of the Act or this ordinance.
- J. 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 Davis County Attorney for legal analysis, opinion, and advice. Such legal opinion and advice shall be submitted in written form by the County Attorney to the County Records Officer and the department head

of the responsible department for response.

- K. 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.
- L. The responsible department upon which a request is made for a record shall maintain a request log and record of any extraordinary circumstances, written responses, denials, and legal opinions with respect to such requests.
- M. The responsible department is not obligated to provide certified copies of that record unless obligated to do so by statute.

Section 12. 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 ordinance.

Section 13. Appeals and Reviews

- 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 any of the following methods;
 - (1) Informal appeal to the department head of the responsible department;
 - (2) Initial administrative review by the county records officer; and/or
 - (3) Administrative appeal to the chief administrative officer.

- C. A purportedly aggrieved person 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 on a form provided by the county.
 - (2) The request must be made prior to the filing of a request for an initial administrative review by the County Records Officer and before the filing of a notice of appeal for administrative review.
 - (3) The request must be submitted to the department head.
 - (4) The department head shall act upon the request and give notice of that action to the aggrieved person within 5 calendar days of the receipt of the request.

- D. A purportedly aggrieved person may seek and shall be granted an initial administrative review by the County Records Officer
 - (1) The review may be following or in lieu of an informal appeal to the department head but must be made before the filing of a notice of administrative appeal.
 - (2) The request must be in writing and shall be on

a form provided by the county.

- (3) The request must be filed with the County Records Officer.
 - (4) The County Records Officer shall act upon the request and give notice of that action to the aggrieved person within 5 calendar days of the receipt of the request.
- E. A purportedly aggrieved person may appeal the initial decision and determination pertaining to the classification of or access to a county record in addition to or instead of the informal appeal to the department head and the initial administrative review by the County Records Officer.
- F. A notice of an administrative appeal must be submitted within 30 days of the date of action appealed or the date when notified of the classification of a requested record or of the county's response to that request.
- G. The notice of administrative appeal shall be in writing, signed by the appellant, and on a form provided by the county. The appellant shall fully complete the form and provide the requested information which shall include at least the following:
- (1) The appellant's name, mailing address, and daytime telephone number; and
 - (2) The release sought; and
 - (3) A short statement of facts, reasons, and basis for the appeal.
- H. The Chief Administrative Officer shall make a determination on the appeal within 5 days after receipt of the notice of appeal.
- (1) If the Chief Administrative Officer fails to make a determination within that time, the appeal shall be deemed denied.
 - (2) The Chief Administrative Officer may, upon consideration of various interests and public policies pertinent to the classification and disclosure or non-disclosure, order the disclosure of information properly classified

as private or protected if the interest favoring access outweigh the interest favoring restriction access.

- I. The decision of the Chief Administrative Officer 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, the time limits for filing such an appeal, and the business address of the State Records Committee.
- J. At any time prior to the filing of a notice of administrative appeal, a purportedly aggrieved person may submit the matter to the Utah State Records Committee for an administrator's review. This review would be at the requestor's option and would be in compliance with the requirements of the Utah State Records Committee.

Section 14. Liability

- A. Neither the county nor any of its officers or employees shall be liable for damages resulting from the release of a record where the requester presented to the county appropriate evidence of authority to obtain the record even if it may be subsequently determined that the requester did not in fact have lawful authority to obtain the record.
- B. 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 ordinance, 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 ordinance, or other law or regulation may be subject to criminal prosecution and disciplinary action, including termination.

Section 15. Amendment of 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 ordinance.
- E. The department head of the responsible department shall issue a written response approving or denying the request to amend within 10 business days after the request for the amendment was received. The response shall include the recommendations of the department head.
- F. The department head shall submit the written response to the County Records Officer who shall review the response with the County Records Task Force. The Records Officer shall then notify the department head and the requesting party of the review decision.
- G. There shall be no appeal of the review decision to the Chief Administrative Officer.
- H. 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 16. County Records Officer

- A. The position of *Davis County Records Officer* within the Office of the County Clerk is hereby established.
- B. The County Records Officer shall be designated by the County Clerk.
- C. The duties of the County Records Officer shall include, but not be 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 agency in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.
- (6) Perform such other services and duties as may be requested by the County Commission regarding records.
- (7) Assist department heads in the screening of requests for records.
- (8) Screen all requests and provide assistance to department heads with respect to reclassification of records.
- (9) Review all appeals after the initial appeal to a department head and issue recommendations to the requester and the department for the resolution of the grievance if possible.

Section 17. County Records Task Force

- A. There is hereby created the Davis County Records Task Force which shall be comprised of those members and be charged with those duties as specified in this section.
- B. The County Records Officer shall be a member and chairman of the County Records Task Force. Members of the task force shall include representatives from the Commission staff, each county department, and the elected officers and any other person

deemed necessary and appropriate by the County Commission.

- C. The County Records Task Force shall be responsible to:
- (1) Establish, schedule, and cause to be conducted regular training for each county department with respect to the Act, this ordinance, and the classification, management, maintenance, designation, and preservation of records.
 - (2) Develop records maintenance and access policies and procedures to govern and implement the provisions of the Act and this ordinance.
 - (3) Develop policies and guidelines pertaining to the retention and maintenance of county records to assure that due care is taken to maintain and preserve county records safely and accurately.

Section 18. Rules and Policies

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

Section 19. 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.

Section 20. County Clerk

Nothing in this ordinance 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 21. 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 Section 63-2-903 of the Act.

- B. 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.
- 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 Board of County Commissioners.

Section 22. 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 policies and procedures.

Section 23. Termination of Position or Agency

- 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 Records Officer.
- 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 24. 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 25. Records Format

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.

Section 26. Computer Data and Software

- A. All computerized and non-written format records and data which are designated and classified in accordance with the Act and this chapter, shall be made available to a requester in accordance with this chapter and 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 ordinance as a public record be available to a requester within a reasonable time and at a reasonable cost.
- D. Access to computer information shall be allowed only in the manner determined by the department head of the responsible department, the County Data Processing Officer and the County Records Officer and may include, but is not necessarily limited to, the following methods:

- (1) Allowing the requester 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 insure that any data which might be defined by the Act or this ordinance as not being public records shall not be retrieved or displayed on the screen nor able to be printed by the requester; that any data may not be altered or deleted by the requester; and that the terminal is available for use without unacceptable hinderance 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 requestor; provided, however, that appropriate precautions be exercised to insure that any data or files which may be defined by the Act or this ordinance as not being public records will not be retrievable by the requester and that appropriate safeguards are taken to avoid contamination of the county computers by the insertion of discs provided by a requester.
 - (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 insure that any data or files which may be defined by the Act or this ordinance as not being public records will not be retrievable by the requester and that appropriate safeguards are taken to avoid contamination of the county computers by the insertion of discs provided by a requester.
- E. Computer software, whether for word processing or data management, is not considered a public record nor data. Computer software shall not be subject to disclosure under this ordinance 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. Department heads 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.

Section 27. Sharing

In addition to the sharing of records authorized and specified by the Act and unless contrary to federal or state law, the Davis County Attorney's Office 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 Tax Assessor is authorized to share records with the Utah State Tax Commission.

Section 28. Justice Court Records

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

Section 29. Repealer

In addition to the repeal of Davis County Ordinance No. 06-92, all ordinances and policies, or any parts thereof, in conflict with this ordinance are hereby repealed and superseded by this ordinance to the extent of such conflict.

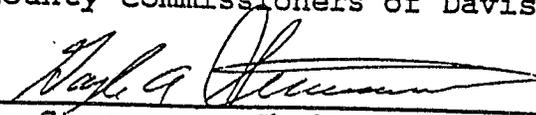
Section 30. Effective Date

This Ordinance shall become effective fifteen (15) days after its enactment and its publication in the manner required by law.

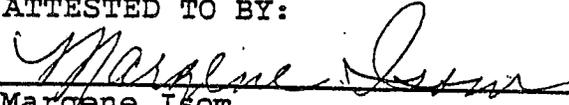
This ordinance was duly approved and adopted by the Board of County Commissioners of Davis County, Utah on the 9th day of April, 1996, upon the following vote:

Commissioner	For	Against	Abstain	Absent
McConkie	✓			
Page	✓			
Stevenson	✓			
Totals	3			

Board of County Commissioners of Davis County

By: 
Gayle A. Stevenson, Chairman

ATTESTED TO BY:


Margene Isom
Davis County Clerk/Auditor

Publication Date: April 14, 1996
Effective Date: April 29, 1996