

**TOOELE COUNTY
ORDINANCE 2021-19**

**AN ORDINANCE REPEALING AND RE-ENACTING CHAPTER 11,
COUNTY RECORDS ACCESS AND MANAGEMENT, OF TITLE 1,
GENERAL PROVISIONS, OF THE TOOELE COUNTY CODE**

WHEREAS, Tooele County has historically been governed by a Board of County Commissioners under the county commission form of government; and

WHEREAS, a majority of Tooele County voters who voted in the 2018 general election voted to change the form of Tooele County government from the county commission form of government to the council-manager form of government; and

WHEREAS, the change to the council-manager form of government occurred on January 1, 2021; and

WHEREAS, certain provisions of existing Title 1, Chapter 11 became obsolete on that same date; and

WHEREAS, re-enacted Title 1, Chapter 11 is expedient and necessary;

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE BODY OF TOOELE COUNTY, UTAH AS FOLLOWS:

SECTION I – CHAPTER REPEALED. Chapter 11, *County Records Access and Management*, of Title 1, *General Provisions*, of the Tooele County Code is hereby repealed.

SECTION II – CHAPTER RE-ENACTED. Chapter 11, *County Records Access and Management*, of Title 1, *General Provisions*, of the Tooele County Code is hereby re-enacted to read as attached hereto, which attachment is, by this reference, made a part hereof.

SECTION III – REPEALER. Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

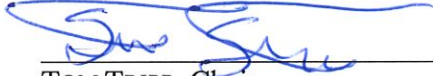
SECTION IV – EFFECTIVE DATE. This ordinance shall become effective fifteen (15) days after its passage, provided it has been published, or at such publication date if more than fifteen (15) days after passage.

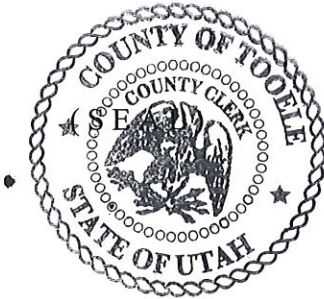
IN WITNESS WHEREOF the Tooele County Council, which is the legislative body of Tooele County, passed, approved and enacted this ordinance this 16th day of March, 2021.

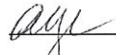

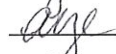


ATTEST:

TOOELE COUNTY COUNCIL:


MARILYN K. GILLETTE, Clerk


TOM TRIPP, Chair



| | |
|-------------------------------|---|
| Council Member Hamner voted |  |
| Council Member Hoffmann voted |  |
| Council Member Thomas voted |  |
| Council Member Tripp voted |  |
| Council Member Wardle voted |  |

APPROVED AS TO FORM:


COLIN R. WINCHESTER
Deputy Tooele County Attorney

TOOELE COUNTY CODE
TITLE 1
GENERAL PROVISIONS

CHAPTER 11
COUNTY RECORDS ACCESS AND MANAGEMENT

Section

- 1-11-1. Definitions.**
- 1-11-2. Adoption of GRAMA.**
- 1-11-3. Records requests.**
- 1-11-4. Fees.**
- 1-11-5. Appeal process.**
- 1-11-6. Records officer and records representatives.**
- 1-11-7. Records maintenance and disposal.**
- 1-11-8. Responsibility for county records.**
- 1-11-9. Access to records maintained in non-written formats.**
- 1-11-10. Justice court records.**

1-11-1. Definitions.

As used in this chapter:

- (1) "Council" means the Tooele County Council.
- (2) "GRAMA" means the Utah Government Records Access and Management Act.
- (3) "Manager" means the Tooele County Manager.
- (4) "Records Officer" means the person appointed as the records officer by the Tooele County Manager.

1-11-2. Adoption of GRAMA.

GRAMA establishes records management practices including the classification of, access to, and retention of, government records. Except as supplemented by this chapter, the council adopts the provisions of GRAMA. However, if the provisions of this chapter differ from GRAMA, the provisions of this chapter govern.

1-11-3. Records requests.

A person making a request for a record shall submit to the records officer a completed GRAMA Request Form.

1-11-4. Fees.

A county agency may charge a reasonable fee to cover the actual cost of providing a record consistent with GRAMA and the fee schedule contained in Title 1, Chapter 6 of this Code.

1-11-5. Appeal process.

- (1) Any person aggrieved by a response to a records request may, within 30 days after the date of the response, appeal to the manager by filing a written notice of appeal with the records officer. The notice of appeal shall contain: the appealing person's name, address, email address

and phone number; the relief sought; a concise statement of the facts, reasons, and legal authority for the appeal; and copies of the request, the response, and any correspondence regarding the request between the requester, the agency and the records officer.

(2) If the appeal involves a record that is subject to business confidentiality or affects the privacy rights of an individual, the records officer shall send a copy of the notice of appeal to the affected person or entity.

(3) In the absence of an agreement by the parties to extend the time for decision, the manager shall issue a written decision within 10 days after receipt of the notice of appeal. Failure of the manager to issue a timely decision constitutes an affirmance of the response.

(4) While the appeal is pending, the manager may request additional information or conduct an informal hearing. If an informal hearing is held, the following persons shall be given the opportunity to participate: the requester; a representative of each department or office to which the request was directed; the records officer; a representative of any entity that claims the requested record is subject to business confidentiality; and any person who claims a privacy right in the requested record.

(5) The manager's decision shall include the reason(s) for the decision and a statement that any aggrieved participant may, within 30 days of the date of the decision, appeal the decision to the State Records Committee or seek judicial review in the district court. A copy of the decision shall be sent to all participants.

1-11-6. Records officer and records representatives.

(1) The manager shall appoint a records officer to oversee and coordinate records access and management. The records officer shall make annual reports to the council.

(2) The records officer shall, on an annual basis, successfully complete online training and obtain certification from state archives as required by state law.

(3) Each county agency shall designate a records representative to assist with and be responsible for the implementation of this chapter in that agency. The records officer shall provide regular training to records representatives.

(4) The records officer shall develop records maintenance procedures to ensure that due care is taken to maintain and preserve county records safely and accurately. The records officer shall monitor 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. The records officer shall develop and implement policies and regulations regarding types and formats of papers, inks, electronic media, and other records and information storage media, materials, equipment, procedures and techniques.

1-11-7. Records maintenance and disposal.

(1) All county records that constitute an intellectual property right shall remain the property of the county unless federal or state law requires otherwise. All other county records shall be the property of the State of Utah. Ownership of county records may not be permanently transferred from the county to any private individual or entity. This prohibition does not prohibit the distribution of copies of records under GRAMA or this chapter. All records disposals shall be conducted in accordance with state law.

(2) At the expiration of their respective terms of office, appointment or employment, custodians of county records shall deliver custody and control of all county and state records in their possession to their successor or supervisor or the records officer.

(3) All records possessed by a county agency shall, upon termination of activities of such agency, be transferred to any successor agency or to the records officer.

1-11-8. Responsibility for county records.

Each county agency shall receive, store and preserve its records so as to maintain the records accurately and safely in compliance with GRAMA and this chapter.

1-11-9. Access to records maintained in non-written formats.

(1) The county may use non-written formats for the storage, retention and retrieval of county records, including but not limited to, audiotapes, videotapes, microfilms, and any type of computer, data processing, imaging, or electronic information storage or processing equipment or systems.

(2) Records representative or the records officer may determine the methods allowed to access records maintained in non-written formats. Such methods may include, but are limited to, the following:

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

(b) providing paper or “hard” copies of records;

(c) providing magnetic tapes, disks, or other means of electronic storage containing the non-written format or data; or

(d) where appropriate, using remote terminals that have access to county computer, data processing or electronic information system pursuant to a formal two-party contract permitting such remote terminal access, provided that due regard shall be exercised to ensure that non-public records will not be accessed, retrieved or displayed on the device and that records are not erased or damaged.

(3) Computer software programs are not records and are not subject to disclosure.

1-11-10. Justice court records.

The maintenance of and access to justice court records is governed by Chapter 4, Article 2 of the Code of Judicial Administration.

TOOELE COUNTY CODE
TITLE 1
GENERAL PROVISIONS

CHAPTER 11
COUNTY RECORDS ACCESS AND MANAGEMENT

Section

- ~~1-11-1. Findings.~~
- ~~1-11-2. Compliance with state law.~~
- ~~1-11-3. Repealed.~~
- ~~1-11-4. Repealed.~~
- ~~1-11-5. Repealed.~~
- ~~1-11-6. Repealed.~~
- ~~1-11-7. Repealed.~~
- ~~1-11-8. Procedures for records request.~~
- ~~1-11-9. Fees.~~
- ~~1-11-10. Appeal process.~~
- ~~1-11-11. Reasonable accommodation.~~
- ~~1-11-12. Repealed.~~
- ~~1-11-13. Repealed.~~
- ~~1-11-14. Records officer.~~
- ~~1-11-15. Records maintenance.~~
- ~~1-11-16. Responsibility for county records.~~
- ~~1-11-17. Computerized records.~~
- ~~1-11-18. Justice court records.~~
- ~~1-11-19. Effective date.~~

~~1-11-1. Findings.~~

~~(1) It is in the best interests of Tooele 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.~~

~~(2) As the records of Tooele County government agencies are a resource containing information which:~~

- ~~(a) allows government programs to function;~~
- ~~(b) provides officials with a basis for making decisions and ensuring continuity with past operations; and~~
- ~~(c) permits citizens to research and document matters of personal and community importance; this resource must be systematically and efficiently managed.~~

~~(3) 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 ordinance and the Government Records Access and Management Act, Chapter 2 of Title 63G of the Utah Code Annotated 1953.~~

~~(4) —The County recognizes a public policy interest in allowing the government to restrict access to certain records, as specified in the Act and this ordinance, for the public good. (Ord. 2019-19, 10/1/19; Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)~~

~~1-11-2. Compliance with state law.~~

~~In enacting this chapter, it is the purpose and intent of the Board of County Commissioners to adopt the Government Records Access and Management Act (hereinafter referred to as “the Act”), Chapter 2 of Title 63G of the Utah Code Annotated 1953. County agencies shall comply with the provisions of this chapter and with the Act and shall also comply with other federal and state statutory and regulatory record-keeping requirements. (Ord. 2019-19, 10/1/19; Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)~~

~~1-11-3. Repealed. (Ord. 2019-19, 10/1/19; Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)~~

~~1-11-4. Repealed. (Ord. 2019-19, 10/1/19; Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)~~

~~1-11-5. Repealed. (Ord. 2019-19, 10/1/19; Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)~~

~~1-11-6. Repealed. (Ord. 2019-19, 10/1/19; Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)~~

~~1-11-7. Repealed. (Ord. 2019-19, 10/1/19; Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)~~

~~1-11-8. Procedures for records request.~~

~~Under circumstances in which an agency is not able to immediately respond to a records request, the requester shall fill out and present to the agency a written request on forms provided by the County. The County shall respond to the request pursuant to state statute. (Ord. 2019-19, 10/1/19; Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)~~

~~1-11-9. Fees.~~

~~An agency may charge a reasonable fee to cover its actual cost of providing a record consistent with UCA 63G-2-203 and the County fee schedule in Title 1, Chapter 6 of the Tooele County Code. (Ord. 2019-19, 10/1/19; Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)~~

~~1-11-10. Appeal process.~~

~~(1) —Any person aggrieved by the County’s classification of a record or by an agency’s response to a record may appeal the determination within 30 days after notice of the County’s action to the County Records Officer by filing a written notice of appeal. The notice of appeal shall contain the petitioners name, address, phone number, relief sought and if petitioner desires, a short statement of the facts, reasons and legal authority for the appeal.~~

~~(2) —If the appeal involves a record that is subject to business confidentiality or affects the privacy rights of an individual, the Records Officer shall send a notice of the requester’s appeal to the affected person or entity.~~

~~(3) —The Records Officer shall make a determination on the appeal within 10 days after receipt of the appeal. During this 10 day period the Records Officer may schedule an informal hearing or request any additional information deemed necessary to make a determination. The~~

~~Records Officer shall send written notice to all participants providing the reasons for the Records Officer's determination. If the Records Officer fails to issue a written decision within 10 days after receipt of the appeal, the requester shall have the right to immediately carry the appeal to the County Commission.~~

~~(4) In addition, if the Records Officer affirms the denial in whole or in part, the denial shall include a statement that the requester has a right to appeal the denial to the County Commission within 30 days at a scheduled County Commission meeting.~~

~~(5) An aggrieved person may file a written notice of appeal from the Records Officer's decision with the Chairman of the County Commission, which appeal shall be heard by the County Commission within 30 days of the filing of such an appeal. If there is no meeting scheduled within the next thirty days, the County Commission shall schedule a meeting for the purpose of hearing the appeal. The final decision of the County Commission shall be by majority vote of a quorum of the Board. The County Commission shall prepare a written decision outlining their final determination and reasons for the final determination. Failure of the Board of County Commissioners to issue a written decision within ten (10) days after conclusion of the hearing grants to the requester the right to carry the appeal to the District Court.~~

~~(6) The appeal of a decision of the County Commission may be made by any aggrieved party to the District Court, in accordance with the Act and the Utah Rules of Civil Procedure.~~

~~(7) The decisions of the County Commission 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. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)~~

~~1-11-11. Reasonable accommodation.~~

~~Reasonable accommodations regarding access to governmental records shall be provided to persons with disabilities in accordance with policies developed under this Ordinance. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)~~

~~1-11-12. Repealed.~~ (Ord. 2019-19, 10/1/19; Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

~~1-11-13. Repealed.~~ (Ord. 2019-19, 10/1/19; Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

~~1-11-14. Records officer.~~

~~(1) 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.~~

~~(2) Each agency of County Government shall appoint a records representative to assist with and be directly responsible for the implementation of this ordinance. Regular training shall be provided under the direction of the records officer to agency records representatives.~~

~~(3) The records officer shall develop and provide records management, maintenance and access standards policies and procedures as approved by the County Commission to govern and implement the provisions of the Act and this ordinance. Copies of any rule or policy promulgated under this ordinance shall be forwarded by the County records officer to the Utah State Division of Archives within 30 days after its effective date. Any agency's internal policies regarding records~~

management and access shall be consistent with this ordinance and state law. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

1-11-15. Records maintenance.

(1) ~~Records maintenance procedures shall be developed to ensure that due care is taken to maintain and preserve County records safely and accurately over the long term. The records offices 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 County Commission.~~

(2) ~~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 ordinance. All records disposals shall be conducted in accordance with policies and procedures.~~

(3) ~~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.~~

(4) ~~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. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)~~

1-11-16. Responsibility for county records.

(1) ~~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 ordinance and the Act. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)~~

1-11-17. Computerized records.

(1) ~~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 ordinance, shall be made available to a requester in accordance with this ordinance and the Act.~~

~~(2) 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:~~

~~(a) 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;~~

~~(b) 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~~

~~(c) 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.~~

~~(3) Computer software programs are not considered a record. Software programs shall not be subject to disclosure under this ordinance 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. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)~~

~~1-11-18. Justice court records.~~

~~Records activities of the County Justice Court system shall comply with and be governed by Section 63G-2-702 of the Act. (Ord. 2019-19, 10/1/19; Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)~~

~~1-11-19. Effective date.~~

~~It is the opinion of the Board of County Commissioners of Tooele County that this ordinance is necessary for the immediate preservation of the peace, health or safety of the County and the inhabitants thereof and shall take effect immediately upon publication in one issue of a newspaper published in and having general circulation in the County. After approval and adoption, a copy and summary of this ordinance shall be forwarded by the County records officer to Utah State Archives. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92; Ord. 92-4, 6/30/92)~~