

TOWN OF RUSTON

ORDINANCE NO. 1293

AN ORDINANCE OF THE TOWN OF RUSTON, WASHINGTON, AMENDING CHAPTER 1.17, PERTAINING TO THE RETENTION AND ARCHIVING OF PUBLIC RECORDS, AND THE PROCESSING OF PUBLIC RECORDS REQUESTS.

WHEREAS, the Town Council of the Town of Ruston finds that its current procedures for compliance with the provisions of the Public Records Act, Ch. 42.56 RCW, do not reflect recent changes in applicable State law, and in some instances do not provide adequate guidance to Town staff to ensure compliance with all applicable public records laws; and

WHEREAS, the Council wishes to take all reasonable measures to ensure the Town's compliance with the Public Records Act and other applicable State public records laws and regulations;

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF RUSTON, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 1.17 RMC is hereby amended to read in its entirety as follows:

1.17.010 Authority and Purpose

(a) RCW 42.56.070(1) requires each agency to make available for inspection and copying nonexempt "public records" in accordance with published rules. The act defines "public record" to include any "writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained" by the agency. RCW 42.56.070(2) requires each agency to set forth "for informational purposes" every law, in addition to the Public Records Act, that exempts or prohibits the disclosure of public records held by that agency.

(b) The purpose of these rules is to establish the procedures the Town of Ruston will follow in order to provide full access to public records. These rules provide information to persons wishing to request access to public records of the Town of Ruston and establish processes for both requestors and Town of Ruston staff that are designed to best assist members of the public in obtaining such access.

(c) The purpose of the act is to provide the public full access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of the efficient administration of government. The act and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the act, the Town of Ruston will be guided by the provisions of the act describing its purposes and interpretation.

1.17.020 Location, contact information and public records officer designated.

(a) Ruston town hall is located at: 5117 North Winnifred Street, Ruston, WA 98407.

(b) The Town Clerk is hereby designated as the public records officer for the Town of Ruston. The Mayor may, in his discretion, assign the Town Attorney to assist the Town Clerk in responding to public records requests.

(c) Any person wishing to request access to public records of the Town of Ruston or seeking assistance in making such a request should contact the public records officer of the Town of Ruston:

Public Records Officer: Ruston Town Clerk , 5117 North Winnifred Street Ruston, WA 98407, 253-759-3544 (phone), 253-752-3754 (fax).

(d) The public records officer will oversee compliance with the act but another employee or the Town Attorney may process the request. Therefore, these rules will refer to the public records officer "or designee."

1.17.030 Availability of public records.

(a) Records index. The Town of Ruston finds that maintaining an index is unduly burdensome and would interfere with Town of Ruston operations. The requirement would unduly burden or interfere with Town of Ruston, operations in the following ways: the magnitude and diversity of documents produced by Town of Ruston departments and the employees within the departments, all utilizing their own computers, has resulted in the creation of many different indexes as created by the computer user. The diversity in computer program applications utilized on each personal computer and the organization of documents created by those applications is impossible to organize into a single index. The performance of the Town of Ruston overall mission does not allow for the addition to, or the revision or reassignment of duties for existing personnel so that a single index can be developed and maintained without hiring additional staff. Anticipated revenue, along with adopted priorities for expenditures does not allow for the hiring of additional staff whose job would be solely devoted to creating and maintaining a single, all-inclusive index.

(b) Organization of records. The Town of Ruston, will maintain its records in a reasonably organized manner. The Town of Ruston, will take reasonable actions to protect records from damage and disorganization. A requestor shall not remove original Town of Ruston records from Town of Ruston property.

(c) Making a request for public records. Any person wishing to inspect or copy public records of the Town of Ruston shall make the request in writing on the Town of Ruston public records request form, or by letter or fax addressed to the public records officer and including the information listed below. The Town of Ruston will not accept requests for public records sent via email correspondence because of the risk of hardware or software failure inherent with email transmission, and because designated staff may be unable to respond promptly, as required by law, due to illness or vacation leave.

1.17.040 Processing of public records requests; General.

(a) Prompt Response. The public records officer or designee will process requests in the order allowing the most requests to be processed promptly and in the most efficient manner.

(b) Acknowledging receipt of request. Within five business days of receipt of the request, the public records officer will do one or more of the following:

(1) provide the record(s) to the requester, or make them available for inspection and copying;

(2) acknowledge by letter, postmarked no more than five (5) business days after receipt of the public records request, that the request has been received and provide

a reasonable estimate of the time the Town of Ruston will require to respond to the request; or

(3) deny the request in writing, stating the reasons for denial.

(4) If copies are requested, provide the copies to the requestor after payment for the copies has been made by the requestor, or, if copies are being released in installments, after payment of a deposit is made pursuant to Section 1.17.070, herein;

(5) The Public Records Officer may also, within the five (5) day deadline provided above, request a clarification of the request and/or additional time to comply with the request. Additional time needed to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the information requested, to notify third persons or agencies affected by the request, or to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request. In acknowledging receipt of a public record request that is unclear the Town of Ruston may ask the requestor to clarify what information the requestor is seeking. If the requestor fails to clarify the request, the Town of Ruston need not respond to it. A request for clarification and/or additional time may also be made, in writing, subsequent to the initial 5-day response, so long as it is made within the time initially estimated for compliance with the request.

(c) Consequences of failure to respond. If the Town of Ruston does not respond in writing within five business days of receipt of the request for disclosure, the requestor should consider contacting the public records officer to determine the reason for the failure to respond.

(d) Protecting rights of others. In the event that the requested records contain information that may affect the rights of others and may be exempt from disclosure, the public records officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

(e) Inspection of records.

(1) Consistent with other demands, the Town of Ruston shall promptly provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor shall indicate which documents he or she wishes the agency to copy. The public records officer or designee will be present when records are being inspected.

(2) The requestor must claim or review the assembled records within thirty days of the Town of Ruston notification to him or her that the records are available for inspection or copying. The agency will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the agency to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the Town of Ruston may close the request and re-file the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

(f) Providing copies of records. After inspection is complete, the public records officer or designee shall make any requested copies or arrange for copying. The public records officer must inform the requestor of the time necessary to provide the requested copies, consistent with Section 1.17.040(b), herein.

(g) Providing records in installments. When the request is for a large number of records, the public records officer or designee will provide access for inspection and

copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If, within thirty days, the requestor fails to inspect either the entire set of records made available, or one or more of the installments made available, the public records officer or designee may stop searching for the remaining records and close the request.

(h) Completion of inspection. When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate that the Town of Ruston has completed a diligent search for the requested records and made any located nonexempt records available for inspection.

(i) Closing withdrawn or abandoned request. When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records officer will close the request and indicate to the requestor that the Town of Ruston has closed the request.

(j) Later discovered documents. If, after the Town of Ruston has informed the requestor that it has provided all available records, the Town of Ruston becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and make the records available for inspection or copying.

(k) No duty to create records. The Town is not obligated to create a new record in order to satisfy a request for records.

1.17.050 Processing of public records requests; Electronic records.

(a) Requesting electronic records. The process for requesting electronic public records is the same as the process for requesting paper public records.

(b) Providing electronic records. When a requestor requests records in an electronic format, if technically feasible, the public records officer will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the Town of Ruston and is generally commercially available; or will provide the records in a format that is reasonably translatable from the format in which the agency keeps the record.

(c) Customized access to data bases. With the consent of the requestor, the Town of Ruston may provide customized access under RCW 43.105.280 if the record is not reasonably locatable or not reasonably translatable into the format requested. The Town of Ruston may charge a fee consistent with RCW 43.105.280 for such customized access.

1.17.060 Exemptions.

(a) The Public Records Act provides that a number of types of documents are exempt from public inspection and copying. If the Town of Ruston believes that a record is exempt from disclosure and should be withheld, the public records officer will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact (i.e., black out) the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted. At the time this ordinance was adopted, a list of the exemptions and prohibitions against release of records was on file with the public records officer and is available for viewing, or release at no charge to the requestor. This list is subject to change as state and

federal law changes. Upon request, the requestor will be provided with an updated list.

(b) The Town of Ruston is prohibited by statute from disclosing lists of individuals for commercial purposes.

1.17.070 Costs of providing copies of public records.

(a) Costs for paper copies. There is no fee for inspecting public records. A requestor may obtain standard 8-1/2 x 11 black and white photocopies for fifteen cents per page. Costs for color copies, and over-sized copies, will be the actual cost of the copies charged by an outside vendor. The public records officer or designee may require a deposit of up to ten percent of the estimated costs of copying the records selected or requested. The public records officer or designee may also require payment in full of the remainder of the copying costs before providing all the records, after deducting any deposit paid. The public records officer or designee may request payment in full of the cost of copying an installment of records before providing that installment. The Town of Ruston will not charge sales tax when copies of public records are reproduced at town hall; however, if copies must be sent to an outside vendor for copying, the cost of sales tax will be charged to the requestor.

(b) Costs for electronic records. The cost of providing electronic copies of records on a CD-ROM disk will be the actual cost as charged by an outside vendor. There will be no charge for e-mailing electronic records to a requestor, unless another cost applies such as a scanning fee.

(c) Costs of mailing. The Town of Ruston may also charge actual costs of mailing, including the cost of a shipping container.

(d) Payment. Payment for the costs of records may be made by cash, check, or money order made payable to the Town of Ruston.

(e) Other statutes govern charges for particular kinds of records. As examples, RCW 46.52.085 (charges for traffic accident reports); RCW 10.97.100 (copies of criminal histories); RCW 3.62.060 and .065 (charges for certain records maintained by courts).

(f) The Town of Ruston has the discretion to waive copying charges for administrative convenience.

1.17.080 Review of denials of public records.

(a) Petition for internal administrative review of denial of access. Any person who objects to the initial denial or partial denial of a records request may petition in writing (including e-mail) to the public records officer for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the public records officer or designee denying the request.

(b) Consideration of petition for review. The public records officer shall promptly provide the petition and any other relevant information to the Ruston Mayor with a copy to the Town Attorney. The Mayor will consider the petition and either affirm or reverse the denial within two business days following the Town of Ruston's receipt of the petition, or within such other time as the Mayor and the requestor mutually agree.

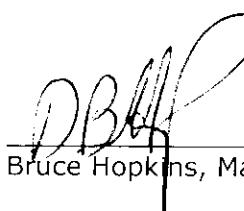
(c) Judicial review. Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550.

1.17.090 Retention, Storage, and Destruction of Public Records.

- (a) Chapter 40.14 RCW, pertaining to the preservation, retention, and destruction of public records, is hereby adopted in its entirety by reference, in its current form or as it may later be amended by the Legislature.
- (b) Chapter 434-662 WAC, pertaining to the preservation, retention, and destruction of electronic public records, is hereby adopted in its entirety by reference, in its current form or as it may later be amended.
- (c) Public Records of the Town of Ruston must be preserved and stored in a location where they may be retrieved for public disclosure with reasonable promptness in compliance with the provisions of Ch. 42.56 RCW, and must be retained in accordance with the records retention schedules set forth in RCW 40.14.060.
- (d) All official correspondence and other documents received by the Town that pertain to Town business are "Public Records" for purposes of Ch. 42.56 RCW and this chapter. The Public Records Officer shall therefore ensure that all official correspondence and other documents received by the Town that pertain to Town business, regardless to whom they are addressed, are at a minimum stamped "received" by the Town, copied, and at least the copy retained as provided in this Section 1.17.090. Originals or copies of such documents may then be sent or released to the Mayor, Councilmember(s), and/or other Town officials at their residences or offices off-site.

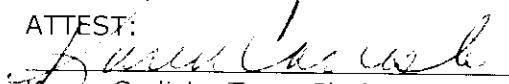
Section 2. Effective Date. This Ordinance shall take effect five days after its publication.

ENACTED by the Town Council of the Town of Ruston in open public meeting, SIGNED by the Mayor and attested by the Town Clerk in authentication of such passage this 20TH day of July, 2009.



Bruce Hopkins, Mayor

ATTEST:



Karen Carlisle, Town Clerk