

**Subject: Resolution #665 – Update of Public Records Act Rules For the City of Ruston**

**Dept. Origin:** City Clerk/Mayor’s Office

**Prepared by:** Jennifer Robertson,  
 City Attorney’s Office

**For Agenda of:** November 21, 2017

**Exhibits:** Resolution #665

**Proposed Council Action:**

Approve Resolution #665.

	Initial & Date
<b>Concurred by Mayor:</b>	_____
<b>Approved by City Planner:</b>	_____
<b>Approved as to form by City Atty:</b>	<b><u>JSR/11-7-17</u></b>
<b>Approved by City Engineer:</b>	_____

**INFORMATION / BACKGROUND**

The State Legislature adopted revisions to the Public Records Act to establish charges that city’s may impose for producing electronic records.<sup>1</sup> In order to utilize these established fees the City must have a rule or regulation declaring the reasons that calculating actual costs of providing electronic records would be unduly burdensome. In Ruston’s case it would be unduly burdensome for the City to calculate the actual costs of producing electronic records due to its small staff and limited number of requests that come in to the City each year, these factors combined with the City’s small budget makes such analysis unfeasible. This finding is incorporated into Resolution No. 665.

The most significant change to the Public Records Rules is in Rule 15(2), under electronic records, which provides cost recovery as allowed by the new statutory changes. Rule 15(2) now provides:

**Costs for electronic records.** Unless actual costs differ, the cost for providing electronic copies of records shall be as follows:

- \$0.10 per page scanned into electronic format,
- \$0.05 for up to 4 files or attachments when provided by electronic delivery,
- \$0.10 per gigabyte of electronic records transmission,
- Actual costs of storage media, contain, envelope, and/or delivery charge (i.e USB drive cost plus envelope and postage),
- The above charges can be combined if more than one type of charge applies.

<sup>1</sup> EHB 1595, Ch. 304, Session Laws of 2017.

There shall be no cost for records that are routinely posted on the City's website. In addition, the City may, at its option, charge an alternative flat fee in the amount of \$2.00 for a request for electronic records, provided that a reasonable estimate is first provided to the requesting party that demonstrates that the City's cost are equal to or greater than \$2.00.

### **FISCAL CONSIDERATION**

By adopting the updated Rules, the City can implement charges for electronic public records requests.

### **BOARD OR COMMITTEE RECOMMENDATION**

None.

### **RECOMMENDATION / MOTION**

The City Council may:

1. Approve the Resolution;
2. Approve the Resolution with revisions; or
3. Not approve the Resolution and give further direction to staff.

Recommendation: Approve the Resolution as drafted.

**MOTION:** I move to approve Resolution #665 updating the City's Public Records Act Rules for the City to provide procedures for processing public records requests, including adding charges for electronic records.

**RESOLUTION NO. 665**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RUSTON, UPDATING THE CITY'S PUBLIC RECORDS ACT RULES FOR THE CITY TO PROVIDE PROCEDURES FOR PROCESSING PUBLIC RECORDS REQUESTS TO INCLUDE NEWLY ADOPTED FEES FOR ELECTRONIC RECORDS.**

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WHEREAS, RCW 42.56.040, 42.56.070 and 42.56.100 of the Public Records Act ("the Act") collectively require that state and local agencies provide, publish and prominently display certain information, exemptions and rules governing disclosure of public records; and

WHEREAS, the City of Ruston ("the City") is a local agency as defined in the Act and must therefore comply with its provisions; and

WHEREAS, under the Act, agencies are "to provide full access to public records. . .the fullest assistance to inquirers and the most timely possible action on requests for information" (RCW 42.56.100); and

WHEREAS, it is the policy of the City of Ruston that all persons are entitled to the greatest possible information regarding the affairs of City government and the official acts of those officers and employees who serve them; and

WHEREAS, providing persons with such information is a core principle of the City and an integral responsibility of every City employee; and

WHEREAS, RCW 42.56.100 obligates the City to prevent public disclosure demands from causing excessive interference with other essential City functions; and

WHEREAS, other essential City functions are determined by state law and by the City Council and include, but are not limited to, providing public safety, financial stability, balanced transportation, dependable infrastructure, environmental protection, housing, human services,

neighborhood services, economic development, building services, development services, parks, recreation and open space and the administrative systems necessary to provide effective government services; and

WHEREAS, RCW 42.56.520 requires the City to promptly respond to all public record requests, and further requires the City to make a reasonable estimate of time required to produce public records 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; and

WHEREAS, RCW 42.56.100 requires the City to take the most timely action possible in fulfilling requests and provide the fullest assistance to requestors in such a manner that prevents excessive interference with other essential functions of the agency; and

WHEREAS, pursuant to WAC 44-14-04003, an agency should try to fulfill all requests in the most efficient manner including the processing of relatively routine requests prior to the fulfillment of much larger or complex, time consuming requests; and

WHEREAS, in recent years the City has experienced an increase in the volume of public record requests, particularly an increase in the number of large or complex requests which require significant staff time, research, review, clarification with requestors, notification to third parties, exemption review, City Attorney time, Planning Director, Police Chief and Clerk/Treasurer time, and which otherwise consume a significant amount of City time and resources often causing delays in fulfilling other routine requests and carrying out other City functions; and

WHEREAS, the City of Ruston is small with a population of under 1,000, annual revenues below \$3 million, a general fund of less than \$2 million and a full time City staff of only seven (7) employees to run ten (10) departments; and

WHEREAS, in addition to the small staff, much of the work performed for the City is done under contract with professional consultants who are paid hourly, usually in the range of \$100 to \$200 per hour; and

WHEREAS, some of the responsibilities for public records requests must be delegated to the City's professional consultants based on the content of the records requested and or staff unavailability; and

WHEREAS, the costs both in time and funds for responding to public records requests is becoming an increasing portion of the City's very small budget and is impacting the City's abilities to fulfill other essential government functions; and

WHEREAS, the City Council having considered the recommendations of staff, the availability of City resources, the requirements of law, and the current demand for public records, has determined that the most efficient and fair way to process public record requests on behalf of residents and nonresidents alike and to provide the fullest assistance, is to create a tiered system whereby, routine requests are handled in the normal course of business in the order they are received, and large or complex requests are handled together in the order in which they are received; and

WHEREAS, this system is intended to prevent excessive interference with the other essential functions of the City; and

WHEREAS, the City's Public Records Chapter 1.17 RMC provides for the adoption of Public Records Act Rules ("Rules"); and

WHEREAS, on June 17, 2014, the City Council adopted Rules under Resolution No. 576;  
and

WHEREAS, the State Legislature updated the Public Records Act (EHB 1595, Chapter 304, Laws of 2017) to address the costs and fee reimbursement for electronic records and these changes need to be incorporated into the Rules; and

WHEREAS, it would be unduly burdensome for the City to calculate the actual costs of producing electronic records due to its small staff and limited number of requests that come in to the City each year, these factors combined with the City's small budget makes such analysis unfeasible; and

WHEREAS, these Rules shall be made readily available to the public in electronic and paper mediums and posted on the City's website; and

WHEREAS, the attached Rules fulfill one of these requirements and were developed using the Attorney General's Office advisory Model Rules for disclosure of public records as a guiding document; and

WHEREAS, the City Council considered this Rules at its Regular Council meeting on May November 21, 2017 and finds it in the best interests of the City to adopt these Rules; **NOW, THEREFORE,**

**THE CITY COUNCIL OF THE CITY OF RUSTON HEREBY RESOLVES AS FOLLOWS:**

**Section 1. Adoption of Findings.** All of the "Whereas" sections above are hereby adopted as findings by the City Council.

**Section 2. Update of Public Records Act Rules.** The Public Records Act Rules which are attached hereto and incorporated herein as Exhibit "A" are hereby adopted as the updated rules the

City will follow in handling public records requests. These Rules shall be read in concert with Chapter 1.17 of the Ruston Municipal Code. If a conflict between the Rules and Chapter 1.17 of the Ruston Municipal Code exists and the provisions cannot be harmonized then the Code shall be the controlling document.

**Section 3.** Repeal of Resolution No. 576. Resolution No. 576 is hereby repealed.

**Section 4.** Clerk's Action to Publish. The City Clerk is directed to publish this resolution title and the availability of the Rules in the official newspaper, post and maintain these rules on the City's website and makes there Rules available to the public for inspection and copying at City Hall.

PASSED by the City Council of the City of Ruston, signed by the Mayor and attested by the City Clerk in authentication of such passage on this 21<sup>st</sup> day of November, 2017.

\_\_\_\_\_  
Bruce Hopkins, Mayor

ATTEST:

\_\_\_\_\_  
Judy Grams, City Clerk

FILED WITH THE CITY CLERK: \_\_\_\_\_  
PASSED BY THE CITY COUNCIL: \_\_\_\_\_  
PUBLISHED: \_\_\_\_\_  
RESOLUTION NO: 665

Exhibit “A” to Resolution #665  
City of Ruston  
Public Records Act Rules



## CITY OF RUSTON - PUBLIC RECORDS ACT RULES

Updated and Adopted on November 21, 2017 – Resolution #665

### **PRA Rule 1. Authority and purpose.**

(1) **Authority.** RCW 42.56.070(1) requires each agency to make available for inspection and copying nonexempt public records in accordance with published rules. The Public Records Act ("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 Act, that exempts or prohibits the production of public records held by that agency.

(2) **Purpose of Rules.** The purpose of these Rules is to establish the procedures the City of Ruston ("the City") will follow in order to provide full access to public records, fullest assistance to inquirers and the most timely possible action as required by RCW 42.56.100, mindful of the further requirement that the Rules must also protect the records from damage or disorganization and prevent excessive interference with other essential functions of the City. These Rules provide information to persons wishing to request access to public records of the City and establish processes for both requestors and City staff that are designed to best assist members of the public in obtaining such access.

(3) **Purpose of Act.** 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 City will be guided by the provisions of the Act describing its purposes and interpretation.

(4) **Act not applicable.** Court files and judges' files are not subject to the Act. Access to these records is governed by court rules and the common law.

(5) **Amendment of the Rules.** The City Council may amend the Rules as necessary to remain in compliance with evolving law governing the handling of public records requests and to update the Rules as facts may require.

### **PRA Rule 2. Agency description-Contact information--Public records officer.**

(1) **Agency description.** The City provides the services of a non-charter code city, including but not limited to, building and plans inspection, court, parks and recreation, planning and community development, public safety and public works services, which are supported and supplemented by financial, administrative and legal services. The City's central office is located at Ruston City Hall 5117 N. Winnifred Street, Ruston WA 98407.

The general course and method by which the City's operations are channeled and determined is through laws adopted and direction given by the City Council and other competent authority in conformity with all applicable city, state and federal law, which are implemented by the Mayor, Department Directors and their designees in conformity with the requirements of those same laws. The City's rules of procedure are set forth in those same laws or in rules adopted pursuant to

authority granted to others as provided in those laws. The City's substantive rules of general applicability that were adopted as authorized by law, as well as the statements of general policy or interpretations of general applicability formulated and adopted by the City are contained in the Ruston Municipal Code, or in rules, resolutions, regulations and interpretations authorized to be adopted or issued in those laws or under federal or state law.

(2) **Contact Information-Public Records Officer.** The public records officer is identified in RMC 1.17.020 as the Ruston City Clerk or designee.

Any person wishing to request access to public records of the City, or seeking assistance in making such a request, should follow the procedures set forth in these Rules and contact the Public Records Officer (the "PRO") of the City to submit such a request or to obtain assistance in making such a request:

City Clerk  
City of Ruston  
5117 N. Winnifred Street  
Ruston, WA 98407  
(253) 759-3554 (phone)  
(253) 752-3754 (fax)  
[townclerk@rustonwa.org](mailto:townclerk@rustonwa.org)

Information is also available at the City's web site at [www.rustonwa.org](http://www.rustonwa.org). In the event the City Clerk is not available, the Utilities Clerk shall be the backup public records officer.

### **PRA Rule 3. Availability of public records.**

(1) **Availability.** Public records are available for inspection and copying during normal business hours of the City, Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding legal holidays. Inspection of records shall occur at the central offices of the City unless another location is approved by the PRO or designee.

(2) **Records index.** In accordance with RMC 1.17 030(a), the Ruston City Council entered a formal order finding that the maintenance of an index was unduly burdensome.

(3) **Organization of records.** The City will maintain its records in a reasonably organized manner. While committed to fully comply with the Act and these Rules, the City must also take reasonable actions to protect records from damage and disorganization and prevent excessive interference with other essential functions of the City. A requestor shall not take City records from City offices. A variety of records are available on the City's web site at [www.Rustonwa.org](http://www.Rustonwa.org). Requestors are encouraged to view the documents available on the web site prior to submitting a records request.

#### **(4) Making a request for public records.**

(a) Any person wishing to inspect or copy public records of the City shall make the request in writing on the City's request form, or by letter or fax addressed to the PRO and including the following information:

Name of requestor; address of requestor; other contact information, including telephone number and any e-mail address; identification of the public records adequate for the PRO to locate the records; and the date and time of day of the request.

(b) If the requestor wishes to have copies or scans of the records made instead of simply inspecting them, he or she should so indicate and make arrangements with the PRO to pay for copies or scans of the records as provided in PRA Rule 15 below.

(c) A form is available for use by requestors at the office of the City Clerk and on-line at [www.Rustonwa.org](http://www.Rustonwa.org).

(d) Public records requests are public records and subject to inspection or copying.

(e) The PRO may accept requests for public records that contain the above information. If the PRO accepts such a request, he or she will confirm receipt of the information and the substance of the request in writing. The confirmation will be deemed the correct statement of the scope of the request unless the requestor responds with a different statement of the scope.

(f) Records requests may only encompass existing records. They cannot be used to obtain copies of records not yet in existence.

#### **PRA Rule 4. Definitions.**

(1) **"Records request queue"** means a list of all the pending and active public records requests in any category whether immediate, routine or complex.

(2) **"Standard time period"** means the estimated time, established as goals, to make requested public records available by category of records request.

#### **PRA Rule 5. Processing of public records requests.**

(1) **Providing "fullest assistance."** Mindful of the requirements of RCW 42.56.100, to the extent reasonably possible, the PRO will process requests in the order allowing the most requests to be processed in the most efficient manner. In an effort to better understand the request and provide all responsive records, the PRO can inquire about the purpose for the request but the requestor is not required to answer except to establish whether inspection and copying would violate RCW 42.56.070(9) (see PRA Rule 10 below) or other statute which exempts or prohibits production of specific information or records to certain persons.

(2) **Acknowledging receipt of request.** Within five business days of receipt of the request, not including the day the request was received as provided by RCW 1.12.040, the PRO will do one or more of the following:

(a) Make the records available for inspection or copying;

(b) If copies are requested and payment or payment of a deposit is made as provided in PRA Rule 15 below, or terms of payment are agreed upon, send the copies to the requestor;

(c) Provide a reasonable estimate of any additional time needed to respond to the request and a date by which the records will be produced in whole or in part depending on whether the records are being provided in installments. The factors used to estimate the additional time needed must be based upon criteria that can be articulated and may be presented in the response estimating the additional time needed. However, additional time is only allowed under the following circumstances:

(i) to request clarification from the requestor if the request is unclear or does not sufficiently identify the requested records. Such clarification may be requested and provided by telephone. If the clarification is made by telephone, the PRO will confirm the scope of the clarification in writing. The confirmation will be deemed the correct statement of the scope of the request unless the requestor responds with a different statement of the scope;

(ii) to locate and assemble the information requested;

(iii) to notify third persons or agencies in the event the requested records contain information that may affect rights of others and may be exempt from production. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him or her to revise the request, or, if necessary, 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; or

(iv) to determine whether any of the information requested is exempt from production and that a denial should be made as to all or part of the request; or

(d) deny the request, specifying the reasons for denial.

(3) **Consequences of failure to respond.** If the PRO does not respond in writing within five business days of receipt of the request for disclosure, the requestor should consider contacting the PRO to determine the reason for the failure to respond.

(4) **Injunction.** Pursuant to RCW 42.56.565, the City may seek to enjoin the inspection or copying of any nonexempt public record by persons serving criminal sentences in state, local, or privately operated correctional facilities.

#### **PRA Rule 6. Categories of requests.**

(1) When a public records request is received, the PRO and/or the designated department representative receiving the records request will categorize the request using the public records evaluation weighting calculation below according to the nature, volume, and availability of the requested records.

Complex requests will be processed separately from Routine requests and will be processed together with other Complex requests in the order such requests were received. The public records officer or designee shall use the method and criteria enumerated below for identifying large or complex requests.

The public records officer or designee shall consider the following criteria when identifying large or Complex requests: (1) the general, expansive, or all inclusive nature of the request; (2) the number of departments involved; (3) the location of records and available method of searching records; (4) the potential number of records implicated; (5) the rights of third parties; (6) the need for clarification of the request; (7) administrative tasks necessary to process the request; (8) the

amount of time needed to review documents for applicable exemptions; (9) the need for legal review of the public records request; (10) the format of relevant records; and (11) other relevant circumstances.

The method for applying the criteria in reviewing the requests shall be the use of the Public Records Request Weighting Calculation Formula below. The PRO shall score those requests which appear to be potentially large or Complex by using the Public Records Request Weighting Calculation Formula.

(a) **Immediate requests.** An immediate request is one where the records requested are readily available, of a common nature, and do not involve the interest of any other person, can be provided by the PRO and the request scores zero points on the Request Weighting Calculation. In such case the PRO may authorize the immediate inspection and/ or copying of such record.

(b) **Routine requests.** A request that scores 8 points or fewer shall be considered a "Routine" request, and will be processed together with other Routine requests in the order such requests were received.

(c) **Complex requests.** A request that scores 9 points or greater shall be considered a Complex request and will be processed together with other Complex requests in the order such requests were received.

(d) **Narrowing complex requests.** Requestors are encouraged to narrow or clarify large or complex requests. A request that is narrowed or clarified will be re-scored to determine if the request qualifies as routine and can otherwise be processed with the other pending routine requests. Requestors are encouraged to consider the needs of others and utilize the public records request process responsibly.

(2) **Re-categorization.** After initial categorization, records requests may be re-categorized in response to unanticipated circumstances or additional information.

(3) **Appeal of categorization.** A requestor may appeal the determination that a request is large or complex to the Mayor or designee by providing a written request for review of the determination to the Mayor's office within ten (10) business days of the determination. A written decision shall be issued by the Mayor or designee within five (5) business days from receipt of the appeal unless extended or waived by mutual written agreement.

**(4) Public Records Request Weighting Calculation Formula.**

<b>Score</b>	<b>Weight</b>	<b>Measurement Criteria</b>
		1) General, expansive or all inclusive nature of request
	0	Specific documents, records identified
	1	Records generally identified
	2	Records Unidentified
		2) Number of departments involved
	0	Records in one Department or Division
	1	Records in two or three Departments or Divisions
	2	Records in more than three Departments or Divisions
		3) Location of available/ relevant records
	0	Records in active files
	1	Records in archive files

0	Records in searchable database
1	Records must be searched in individual locations
4)	Potential number of records implicated
0	Less than 10 documents( not pages)
1	More than 10, less than 50 documents
3	more than 50 less than 500 documents
5	Greater than 500 documents
5)	Third party notifications
0	No notifications
1	Notifications
6)	Need for clarification
0	No clarification needed
1	Clarification needed
7)	Administrative tasks needed to process request
1	Interpretation
1	Search Hard Copy
0	Search electronic copy
2	Metadata
1	Search other
1	File prep for photocopy, scan
1	Burning CD/DVD or Outsourcing Production
0	File prep for electronic production
8)	Time needed for review for exemptions
0	No review time
1	Review time less than 2 hours
2	Greater than 2 hours, less than 10 hours
3	Greater than 10 hours
9)	Legal review required
0	No legal required
1	Legal required
0-2	10) Other Relevant Factors

**Total Score**

**PRA Rule 7. Managing the queues.**

The Public Disclosure Officer is primarily responsible for managing the records requests queues based on the following criteria:

- (1) the number of records responsive to a given request;
- (2) the number and size of other records requests in the queue;
- (3) the amount of processing required for the subject request or requests and other requests in the queue;
- (4) the status of a particular request that is waiting for third party review or requestor action; and
- (5) the current volume of other City work, as it affects the amount of staff time that can be devoted to the subject request or requests.

**PRA Rule 8. Resource allocation for public records request so as not to excessively interfere with essential government functions.**

(1) The Council allocates up to 12 hours per month for the Public Records Officer and up to five hours per month for any other employee or consultant. This is the effort necessary to ensure that the public disclosure response is not creating excessive interference with essential government functions. This allocation will be considered each year as part of the Council's budget discussion and updated as appropriate.

(a) **Immediate requests.** The PRO will allocate up to 3 hours per month for immediate requests. Immediate requests do not involve other employees or consultants. Those are handled under "routine" or "complex" requests.

(b) **Routine requests.** The PRO will allocate up to 4 hours per month for routine requests and other employees or consultants will allocate half of their allotted time of 5 hours per month to routine requests.

(c) **Complex requests.** The PRO will allocate up to 5 hours per month for complex requests and other employees or consultants will allocate half of their allotted time of 5 hours per month to complex requests.

(d) **Use of allocated time.** Depending on the balance of records requests in the queue, the PRO may spend up to the maximum allocated hours on one or two types of requests if other categories of requests are not pending. In addition, other staff or consultants may spend up to their maximum allocated hours on one type of request if that is the only type of request that is pending which needs their efforts to complete.

**PRA Rule 9. Records requests queues.**

(1) All records requests shall be maintained and tracked in records requests queues with a separate queue for each category. The queues shall identify the status of the records as "pending," "active," or "completed."

(2) Records requests will initially be entered in the respective queues in the chronological order in which they are received by the City. Responding to a records request is not always a sequential process. The PRO will manage the active queues by moving between requests based on circumstances that may include, but are not limited to the following:

- (a) a request is waiting for records to be retrieved from storage;
- (b) a request is waiting for records to be retrieved from persons or entities that hold them on behalf of the City (e.g. employees, consultants);
- (c) a request is waiting for the requestor to respond to a request for clarification;
- (d) a request is waiting for a response after notifying a third party named in a record;
- (e) a request is waiting for the expiration of the time allowed a third party to obtain an order from a court enjoining release of records;
- (f) a request is waiting for resolution of a legal action filed by a third party to enjoin release of records;
- (g) a request is waiting for legal review of records to determine if they meet the definition of a public record or the applicability of exemptions and production of an exemption log;

- (h) a request is waiting for consideration of a petition to review denial of access;
- (i) a request is waiting for the requestor to pay for copies of the records or pay a deposit for copies;
- (j) a request is waiting for external vendor reproduction of records; or
- (k) a request is waiting for the requestor to claim an installment or physically inspect records.

#### **PRA Rule 10. Redactions and exemptions.**

(1) **Records exempt from production.** Some records are exempt from production, in whole or in part. If a record is exempt from production and should be withheld, the PRO will state the specific exemption and provide a brief explanation of how the exemption applies to the record being withheld. If only a portion of a record is exempt from production, but the remainder is not exempt, the PRO will redact the exempt portions, produce the nonexempt portions, and indicate to the requestor why portions of the record are being redacted. (For the purposes of these Rules, redact means the exempt information will be covered or blacked-out in some manner so that the information is not visible in the disclosed record.)

The City is also prohibited by statute from producing lists of individuals for commercial purposes. Therefore, if a request is received for any type of list of individuals, an inquiry as to whether the requestor intends to use the list for commercial purposes must be answered before the list can be provided. If the answer is that it will be used for such purposes, the list cannot be produced.

#### **PRA Rule 11. Inspection of records.**

##### **(1) Inspection of records.**

(a) Consistent with other demands, the City 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 City to copy or scan, if any, and provide payment for those copies or scans.

(b) The requestor must claim or review the assembled records within 30 days of the PRO'S notification to him or her that the records are available for inspection or copying/scanning.

The PRO will notify the requestor, in writing, of this requirement and inform the requestor that he or she should contact the PRO 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 30-day period, the PRO 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.

#### **PRA Rule 12. Providing records.**

(1) **Providing records in installments.** When the request is for a large number of records, the PRO may 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 manner. If, within 30 days, the requestor fails to inspect the entire set of records or one or more of the installments, the PRO may stop searching for the remaining records and close the request.



(2) **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 PRO will close the request and so inform the requestor.

(3) **Later discovered documents.** If, after the PRO has informed the requestor that he or she has provided all available records, the PRO becomes aware of additional responsive documents existing at the time of the request that had not been provided previously, he or she will promptly inform the requestor of the additional documents and provide them on an expedited basis.

(4) **Identifiable record.** A requestor must request an "identifiable record" or "class of records" before an agency must respond. An identifiable record is one that agency staff can reasonably locate. The Act does not allow a requestor to search through agency files for records which cannot be reasonably identified or described to the agency.

(5) **Requests for information or nonexistent records.** Requests for information are not public records requests. An agency is not required to conduct legal research for a requestor. An agency is not required to create records to respond to a request.

#### **PRA Rule 13. Processing of public records requests-electronic records.**

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

(2) **Providing electronic records.** If public records are requested in an electronic format, the PRO will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the agency and is generally commercially available, or in a format that is reasonably translatable from the format in which the agency keeps the record. Costs for providing electronic records are governed by PRA Rule 15 below.

(3) **Customized access to databases.** With the consent of the requestor, the City may provide customized access under RCW 43.41A.130 if the record is not reasonably locatable or not reasonably translatable into the format requested. The City may charge a fee consistent with RCW 43.41A.130 for such customized access.

(4) **Retaining electronic copies.** Because an electronic record is usually more susceptible to manipulation and alteration than a paper record, the City will keep, when feasible, an electronic copy of the electronic records it provides to a requestor to be able to show the exact records it provided if necessary.

#### **PRA Rule 14. Exemptions provided by other statutes.**

(1) **Exemptions.** The Act provides that a number of records are exempt from public inspection and copying. In addition, documents are exempt from production if any "other statute" exempts or prohibits production. Requestors should be aware of the following exemptions, outside the Act, that may restrict the availability of some records held by the City for inspection and copying/scanning:

RCW 2.64.111 Documents regarding discipline/retirement of judges

RCW 2.64.113 Confidentiality - violations  
RCW 4.24.550 Information on sex offenders to public  
RCW 5.60.060 Privileged communications  
RCW 5.60.070 Court-ordered mediation records  
RCW 7.68.140 Victims' compensation claims  
RCW 7.69A.030(4) Child victims and witnesses - protection of identity  
RCW 7.69A.050 Rights of child victims and witnesses - addresses  
RCW 7.75.050 Records of Dispute Resolution Centers  
RCW 9.02.100 Reproductive privacy  
RCW 9.51.050 Disclosing transaction of grand jury  
RCW 9.51.060 Disclosure of grand jury deposition  
RCW 9.73.090(1)(c) Prohibition regarding specified emergency response personnel recordings  
RCW 10.27.090 Grand jury testimony/evidence  
RCW 10.27.160 Grand jury reports - release to public only by judicial order  
RCW 10.29.030 Organized crime special inquiry judge  
RCW 10.29.090 Records of special inquiry judge proceedings  
RCW 10.52.100 Records identifying child victim of sexual assault  
RCW 10.77.210 Records of persons committed for criminal insanity  
RCW 10.97.040 Criminal history information released must include disposition  
RCW 10.97.050 Conviction and criminal history information  
RCW 10.97.060 Deletion of certain criminal history record information, conditions  
RCW 10.97.070 Disclosure of identity of suspect to victim  
RCW 10.97.080 Inspection of criminal record by subject  
RCW 13.32A.090 Crisis residential centers notice to parent about child  
RCW 13.34.115 Court dependency proceedings  
RCW 13.40.217 Juveniles adjudicated of sex offenses - release of information  
RCW 13.50.010 Maintenance of and access to juvenile records  
RCW 13.50.050 Juvenile offenders  
RCW 13.50.100 Juvenile/children records not relating to offenses  
RCW 13.60.020 Missing children information  
RCW 13.70.090 Citizen juvenile review board - confidentiality  
RCW 18.04.405 Confidentiality of information gained by CPA  
RCW 18.19.060 Notification to clients by counselors  
RCW 18.19.180 Confidential communications with counselors  
RCW 19.215.020 Destruction of personal health and financial information  
RCW 19.34.240(3) Private digital signature keys  
RCW 19.215.030 Compliance with federal rules  
RCW 26.04.175 Name and address of domestic violence victim in marriage records  
RCW 26.12.170 Reports of child abuse/neglect with courts  
RCW 26.23.050 Child support orders  
RCW 26.23.120 Child support records  
RCW 26.26.041 Uniform Parentage Act - protection of participants  
RCW 26.26.450 Confidentiality of genetic testing  
RCW 26.33.330 Sealed court adoption records  
RCW 26.33.340 Agency adoption records  
RCW 26.33.343 Access to adoption records by confidential intermediary  
RCW 26.33.345 Release of name of court for adoption or relinquishment  
RCW 26.33.380 Adoption - identity of birth parents confidential  
RCW 26.44.010 Privacy of reports on child abuse and neglect  
RCW 26.44.020(19) Unfounded allegations of child abuse or neglect  
RCW 26.44.030 Reports of child abuse/neglect

RCW 26.44.125 Right to review and amend abuse finding - confidentiality  
RCW 27.53.070 Records identifying the location of archaeological sites  
RCW 29A.08.720 Voter registration records - place of registration confidential  
RCW 29A.08.710 Voter registration records - certain information exempt  
Chapter 40.14 RCW Preservation and destruction of public records  
RCW 42.23.070(4) Municipal officer disclosure of confidential information prohibited  
RCW 42.41.030(7) Identity of local government whistleblower  
RCW 42.41.045 Nondisclosure of protected information (whistleblower)  
RCW 46.52.080 Traffic accident reports - confidentiality  
RCW 46.52.083 Traffic accident reports - available to interested parties  
RCW 46.52.120 Traffic crimes and infractions - confidential use by police and courts  
RCW 46.52.130(2) Abstract of driving record  
RCW 48.62.101 Local government insurance transactions - access to information  
RCW 50.13.060 Access to employment security records by local government agencies  
RCW 50.13.100 Disclosure of non-identifiable information or with consent  
RCW 51.28.070 Worker's compensation records  
RCW 51.36.060 Physician information on injured workers  
RCW 60.70.040 No duty to disclose record of common law lien  
RCW 68.50.105 Autopsy reports  
RCW 68.50.320 Dental identification records - available to law enforcement agencies  
Chapter 70.02 RCW Medical records - access and disclosure - entire chapter  
RCW 70.05.170 Child mortality reviews by local health departments  
RCW 70.24.022 Public health agency info. regarding sexually transmitted disease investigations  
- confidential  
RCW 70.24.024 Transcripts and records of hearings regarding sexually transmitted diseases  
RCW 70.24.105 HIV/STD records  
RCW 70.28.020 Local health department TB records - confidential  
RCW 70.48.100 Jail records and booking photos  
RCW 70.58.055 Birth certificates - certain information confidential  
RCW 70.58.104 Vital records, research confidentiality safeguards  
RCW 70.94.205 Washington Clean Air Act – confidentiality of data  
RCW 70.96A.150 Alcohol and drug abuse treatment programs  
RCW 70.123.075 Client records of domestic violence programs  
RCW 70.125.065 Records of rape crisis centers in discovery  
RCW 71.05.390 Information about mental health consumers  
RCW 71.05.395 Ch. 70.02 RCW applies to mental health records  
RCW 71.05.400 Information to next of kin or representative  
RCW 71.05.425 Notice of release or transfer of committed person after offense dismissal  
RCW 71.05.427 Information that can be released  
RCW 71.05.430 Statistical data  
RCW 71.05.440 Penalties for unauthorized release of information  
RCW 71.05.445 Release of mental health information to Dept. of Corrections  
RCW 71.05.620 Authorization requirements and access to court records  
RCW 71.05.630 Release of mental health treatment records  
RCW 71.05.640 Access to treatment records  
RCW 71.05.650 Accounting of disclosures  
RCW 71.24.035(5)(g) Mental health information system  
RCW 71.34.200 Mental health treatment of minors  
RCW 71.34.210 Court records for minors related to mental health treatment  
RCW 71.34.225 Release of mental health services information  
RCW 71A.14.070 Records regarding developmental disability

RCW 72.09.345 Notice to public about sex offenders  
RCW 72.09.585(3) Disclosure of inmate records to local agencies  
RCW 73.04.030 Veterans discharge papers exemption (see related RCW 42.56.440)  
RCW 74.04.060 Applicants and recipients of public assistance  
RCW 74.04.520 Food stamp program confidentiality  
RCW 74.09.900 Medical assistance  
RCW 74.13.121 Financial information of adoptive parents  
RCW 74.13.280 Children in out-of-home placements  
RCW 74.20.280 Child support enforcement - local agency cooperation, information  
RCW 74.34.095 Abuse of vulnerable adults - confidentiality of investigations and reports  
RCW 82.32.330 Disclosure of tax information  
RCW 84.36.389 Confidential income data in property tax records held by assessor  
RCW 84.40.020 Confidential income data supplied to assessor regarding real property  
20 USC § 1232g Family Education Rights and Privacy Act  
42 USC 290dd-2 Confidentiality of Substance Abuse Records  
42 USC 405(c)(2)(vii)(I) Limits on Use and Disclosure of Social Security Numbers  
42 USC 654(26) State Plans for Child Support  
42 USC 671(a)(8) State Plans for Foster Care and Adoption Assistance  
42 USC 1396a(7) State Plans for Medical Assistance  
7 CFR 272.1(c) Food Stamp Applicants and Recipients  
34 CFR 361.38 State Vocational Rehabilitation Services Programs  
42 CFR Part 2 (2.1- 2.67) Confidentiality of Alcohol and Drug Abuse Patient Records  
42 CFR 431.300- 307 Safeguarding Information on Applicants and Recipients of Medical Assistance  
42 CFR 483.420 Client Protections for Intermediate Care Facilities for the Mentally Retarded  
42 CFR 5106a(b)(2)(A) Grants to States for Child Abuse and Neglect Prevention and Treatment Programs  
45 CFR 160-164 HIPAA Privacy Rule

#### **PRA Rule 15. Costs of providing copies of public records.**

(1) **Costs for copies.** A requestor may obtain copies or scans as provided under RCW 42.56.070(8), 42.56.120 and WAC 44-14-07003. For standard in-house black and white 8.5" by 11" pages, the copy cost shall be \$0.15 per page. For records in other forms, the City will charge the actual cost it pays or incurs for the medium used to record the record or records provided. Those mediums include, but are not limited to, tapes, floppy disks, CDs, DVDs and paper that costs more than \$0.15 per page. The statements providing those costs are the invoices paid to obtain them and are available for public inspection and copying.

Actual costs for copying. In accordance with State law, the City may charge for the actual costs connected with copying and providing public records, including staff time spent making the copies, including but not limited to time spent scanning documents, copying/ downloading/uploading electronic records, and making paper copies. When the City charges for actual time, this shall be in lieu of the \$0.15 per page cost. The actual time shall be based on the hourly rate that the City pays the employee or outside contractor or consultant for performing the copying.

Before beginning to make copies, the PRO may require a deposit of up to ten percent of the estimated costs of copying or scanning all the records selected by the requestor. The PRO may also require the payment of the remainder of the copying/scanning costs before providing all the

records, or the payment of the costs of copying/scanning an installment before providing that installment. The PRO will not charge sales tax when it makes copies or scans of public records but if the records are sent to a third party for copying/scanning, that third party may charge sales tax and the requestor will be responsible for payment of that tax as well as the third party's actual charges for copies or scans.

(2) **Costs for electronic records.** Unless actual costs differ, the cost for providing electronic copies of records shall be as follows:

- \$0.10 per page scanned into electronic format,
- \$0.05 for up to 4 files or attachments when provided by electronic delivery,
- \$0.10 per gigabyte of electronic records transmission,
- Actual costs of storage media, contain, envelope, and/or delivery charge (i.e USB drive cost plus envelope and postage),
- The above charges can be combined if more than one type of charge applies.

There shall be no cost for records that are routinely posted on the City's website. In addition, the City may, at its option, charge an alternative flat fee in the amount of \$2.00 for a request for electronic records, provided that a reasonable estimate is first provided to the requesting party that demonstrates that the City's cost are equal to or greater than \$2.00.

(3) **Costs of mailing.** The City may also charge actual costs of mailing, including the cost of the shipping container.

(3) **Payment.** Payment may be made by cash, check, or money order made payable to the City.

(4) **Other copying charges.** The Act generally governs copying charges for public records, but several specific statutes govern charges for particular kinds of records. The following non-exhaustive list provides some examples:

- RCW 46.52.085 (charges for traffic accident reports);
- RCW 10.97.100 (copies of criminal histories); and
- RCW 70.58.107 (charges for birth certificates).

The City will charge the amount authorized pursuant to these other statutes rather than as provided under the Act.

(5) **Use of outside vendor.** An agency is not required to copy/scan records at its own facilities. An agency can send the project to a commercial copying/scanning center and bill the requestor for the amount charged by the vendor. An agency can arrange with the requestor to pay the vendor directly. An agency cannot charge the default per page copying/scanning charge when its cost at a vendor is less.

(6) **Waiver of copying costs.** The City of Ruston has the discretion to waive copying charges for administrative convenience.

**PRA Rule 16. Review of denials of public records requests.**

(1) **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 to the PRO for a review of that decision. The petition shall be made within five days of the receipt of the notice denial and shall be filed with the City Clerk no later than 5 p.m. on the fifth business day. Such petition shall include a copy of or reasonably identify the written statement by the PRO denying the request.

(2) **Consideration of petition for review.** The PRO shall promptly provide the petition and any other relevant information to the Mayor to conduct the review, with a copy to the City Attorney. The Mayor will promptly consider the petition and either affirm or reverse the denial within five business days following the City's receipt of the petition, or within such other time as the City and the requestor mutually agree.

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