

ORDINANCE NO. 1438

AN ORDINANCE OF THE CITY OF RUSTON, REGARDING PUBLIC RECORDS, AMENDING CHAPTER 1.17 OF THE RUSTON MUNICIPAL CODE TO PROVIDE FOR THE ADOPTION OF RULES, TO PROVIDE FOR CATEGORIZING TYPES OF RECORDS REQUEST AND CREATION OF REQUEST QUEUES, TO ESTABLISH RESOURCE LIMITATIONS FOR HANDLING PUBLIC RECORDS REQUESTS TO AVOID INTERFERENCE WITH OTHER ESSENTIAL GOVERNMENT FUNCTIONS, DELETING SOME PROVISIONS OF THIS CHAPTER WHICH HAVE BEEN MOVED INTO THE NEWLY ADOPTED RULES, AMENDING SECTIONS 1.17.010, 1.17.020, 1.17.030, 1.17.040, 1.17.050, 1.17.060, 1.17.070, 1.17.080 AND 1.17.090, ADDING NEW SECTIONS 1.17.015, 1.17.035, 1.17.045, 1.17.055, 1.17.065, MAKING HOUSEKEEPING AMENDMENTS, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, open government leads to a better informed electorate, greater public participation, better government, and more effective use of public resources; and

WHEREAS, under the Public Records 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, 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, 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 only 759, annual revenues of approximately \$2.567 million, a general fund of only \$1.35 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 between \$100 and \$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, it is necessary to determine a reasonable level of effort to devote to responding to requests for public records commensurate with the available resources and staffing; and

WHEREAS, on May 6, 2014 the City Council held first reading of this Ordinance; and

WHEREAS, on June 17, 2014, the City Council adopted this Ordinance at second reading during its regular meeting; **NOW, THEREFORE**

THE CITY COUNCIL OF THE CITY OF RUSTON DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Section 1.17.010 of the Ruston Municipal Code is hereby amended to read as follows:

1.17.010 Findings, 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.~~

(a) Providing "fullest assistance." Responding to public records requests is one of the city's unique and core essential functions and is also the responsibility of every city employee. The City is charged by statute with adopting rules which provide how it will "provide full access to public records," "protect records from damage or disorganization," "prevent excessive interference with other essential functions of the City," provide "fullest assistance" to requestors, and provide the "most timely possible action" on public records requests. The public records officer or designee will process requests in the order allowing the most requests to be processed in the most efficient manner as outlined in this chapter and the adopted Rules.

(b) Similar to the City's other essential functions, the staffing and resources that the city can devote to responding to public records requests are necessarily limited.

(c) In order to avoid excessive interference with other essential functions of the City, the city needs to establish the appropriate level of effort to be devoted to responding to public records requests and the level of resource to be allocated.

Section 2. A new section 1.17.015 is hereby added to the Ruston Municipal Code to read as follows:

1.17.015 Authority; rules.

(a) Authority. RCW 42.56.070(1) requires each agency to make available for inspection and copying nonexempt "public records" in accordance with published rules.

(b) Establishment of Rules. As required by the Public Records Act, chapter 42.56 RCW, in addition to this Chapter 1.17, the City has separately established Public Records Act Rules ("Rules") governing the process for requesting public records and responding to requests for public records. These Rules are posted on the city's website at www.rustonwa.org Consistent with the findings of this chapter, the Council shall promulgate these Rules by resolution and such rules may be amended from time-to-time as needed or appropriate to conform to laws or, as appropriate, to enhance services to the public, protect privacy, and/or increase efficiency in administering the Act to the fullest extent permitted by law.

(c) Authority to publish rules. The public records officer shall make the Ruston Public Records Act rules readily available to the public in electronic and paper mediums.

Section 3. Section 1.17.020 of the Ruston Municipal Code is hereby amended to read as follows:

1.17.020 Location, contact information and public records officer designated.

(a) Ruston ~~Town~~City Hall is located at: 5117 North Winnifred Street, Ruston, WA 98407.

(b) The ~~Town~~City Clerk is hereby designated as the public records officer for ~~the Town of~~ Ruston. The Mayor may, in his discretion, assign the ~~Town~~City 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~~City 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~~City 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~~City Attorney may process the request. Therefore, these rules will refer to the public records officer "or designee."

Section 4. Section 1.17.030 of the Ruston Municipal Code is hereby amended to read as

follows:

1.17.030 Availability of public records.

(a) Opt Out of Records Index. ~~The TownCity of Ruston has a population of less than 1,000 and a full time staff of seven (7) with ten (10) departments, some of which are directed by outside professional consultants. The different departments maintain separate databases and/or record keeping systems for indexing of records and information. Because these records are diverse, complex and stored in multiple locations and in multiple computer systems and databases, it finds that maintaining an index is unduly burdensome to maintain a central index of these records and would interfere with Town of RustonCity 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's 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. Therefore, the Council finds that maintaining the index required by RCW 42.56.070(3) would be unduly burdensome and formally orders that such an index does not have to be maintained as allowed under RCW 42.56.070(4) so long as all other City indexes are available for public inspection and copying in conformity with applicable law.~~

(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.

~~(b)(e) Making a Request for Public Records.~~ Any person wishing to inspect or copy public records of the TownCity of Ruston shall make the request in writing in accordance with the City's Public Records Act Rules adopted pursuant to RMC 1.17.015. Such request shall be on the ~~Town of RustonCity's~~ 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.~~

Section 5. A new section 1.17.035 is hereby added to the Ruston Municipal Code to read as follows:

1.17.035 Categories of requests.

(a) When a public records request is received, the Public Records Officer will categorize the request according to the nature, volume, and availability of the requested records as set forth in the Rules. The categories of public records requests will be established based on the criteria set forth in the Rules and categorized “imminent”, “routine” or “complex.”

(b) The City shall ensure that all categories of records requests receive an allocation of resources for response throughout the year.

Section 6. Section 1.17.040 of the Ruston Municipal Code is hereby amended to read as follows:

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. make public records available promptly when requested under the Public Records Act utilizing the process set forth in the Rules. The Rules shall establish goals for standard response periods for all categories of records requests.~~

(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 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 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 five 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 30 days of the Town/City 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 subsection 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 30 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.~~

Section 7. A new section 1.17.045 is hereby added to the Ruston Municipal Code to read as follows:

1.17.045 Records request queues.

(a) Records requests shall be maintained and tracked in records requests queues, as set forth in the Rules. The queues shall identify the status of the records requests as "pending," "active," or "completed."

(b) Records requests will be subsequently managed in the queue based on the criteria set forth in the Rules.

Section 8. Section 1.17.050 of the Ruston Municipal Code is hereby amended to read as follows:

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~~City 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~~City 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~~City of Ruston may charge a fee consistent with RCW 43.105.280 for such customized access.

Section 9. A new section 1.17.055 is hereby added to the Ruston Municipal Code to read

as follows:

1.17.055 City website.

(a) The City posts commonly requested records on its website.

(b) The City's response to a records request may be to provide the requestor a link to records posted on its website, unless the requestor notifies the City that he or she cannot access the records through the internet.

(c) By June 2014, the City will maintain a separate page on its website that shall include the records request queues. The Public Records Officer shall ensure that the website is updated to provide current information, including the date the records request was made, its order in the queue, and the estimated time of responding to the request.

Section 10. Section 1.17.060 of the Ruston Municipal Code is hereby amended to read

as follows:

1.17.060 Exemptions.

(a) ~~The Public Records Act and other provisions of State and Federal law provides that a number of types of documents or types of information are exempt from public inspection and copying. The City's procedures for exempt or partially exempt records are contained in the Rules. A list of the exemption and prohibition statutes not listed in the Public Records Act can be found in the Rules. 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 section 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 CityTown of Ruston is prohibited by statute from disclosing lists of individuals for commercial purposes.~~

Section 11. A new section 1.17.065 is hereby added to the Ruston Municipal Code to

read as follows:

1.17.065 Resources devoted to public records disclosure.

(a) The Council shall establish the resources allocated to public disclosure response in the Rules in order to ensure that such work does not interfere with essential government functions.

(b) Starting with the 2015 annual budget process, the City Council shall annually determine and establish the level of effort to be devoted to public records disclosure and the amount of resources to be allocated.

Section 12. Section 1.17.070 of the Ruston Municipal Code is hereby amended to read as follows:

1.17.070 Costs of providing copies of public records.

(a) ~~Costs for Paper Copies. The costs for providing copies of public records shall be as set forth in the Rules. There is no fee for inspecting public records. A requestor may obtain standard 8½ × 11 black and white photocopies for 15 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 emailing 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.~~

Section 13. Section 1.17.080 of the Ruston Municipal Code is hereby amended to read

as follows:

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 seek administrative review of such denial in accordance with the procedures in the Rules. petition in writing (including email) 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 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.~~

Section 14. Section 1.17.090 of the Ruston Municipal Code is hereby amended to read

as follows:

1.17.090 Retention, storage, and destruction of public records.

(a) ~~The City shall comply with State law with regard to public records, including but not limited to 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) and 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.~~

(b)(e) ~~Public records of the Town of Ruston~~City 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.~~

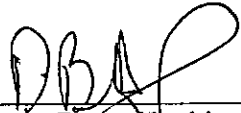
Section 15. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 16. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 17. Effective Date. This Ordinance shall be effective five days after publication as provided by law.

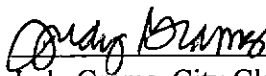
ADOPTED by the City Council of the City of Ruston and attested by the City Clerk in authentication of such passage on this 17th day of June, 2014.

APPROVED by the Mayor this 17th day of June, 2014.



Bruce Hopkins, Mayor

ATTEST/AUTHENTICATED:



Judy Grams, City Clerk

APPROVED AS TO FORM:



Office of the City Attorney

FILED WITH THE CITY CLERK: 5/2/2014
PASSED BY THE CITY COUNCIL: _____
PUBLISHED: _____
EFFECTIVE DATE: _____
ORDINANCE NO: 1438