

ORDINANCE NO. O-01-2012

PUBLIC RECORDS ACT – MODEL RULES

AN ORDINANCE REPEALING ORDINANCE NO. O-01-06 AND ADOPTING A NEW ORDINANCE - ORDINANCE NO. O-01-2012 - AN ORDINANCE OF ADAMS COUNTY ADOPTING THE PUBLIC RECORDS ACT – MODEL RULES; AND, SUBSEQUENTLY AMENDING CHAPTER 2.122 OF THE ADAMS COUNTY CODE.

SECTION 1. AUTHORITY AND PURPOSE

WAC 44-14-010 Authority and purpose. (1) 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.

(2) The purpose of these rules is to establish the procedures Adams County 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 Adams County and establish processes for both requestors and Adams County staff that are designed to best assist members of the public in obtaining such access.

(3) The purpose of the act is also 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, Adams County will be guided by the provisions of the act describing its purposes and interpretation.

WAC 44-14-020 Agency description--Contact information--Public Records Officer. (1) Adams County is a Washington municipal corporation and provides numerous services through its various departments and elected officers and their staff. These functions include but are not limited to maintaining public records such as real estate and election filings and processing vouchers at the Auditor's office; assessing real and personal property at the Assessor's office; collecting taxes and fees at the Treasurer's office; management of the county road system at the Public Works Office; handling legal and court matters at the Prosecutor's Office; and, handling legislative and executive matters at the County Commissioners' office. Adams County's main office is located at the Adams County Courthouse, 210 W. Broadway, Ritzville, Washington 99169. Adams County has a public services building at 425 E. Main, Othello, Washington 99344

(2) Any person wishing to request access to public records of Adams County, or seeking assistance in making such a request, should contact the public records officer of Adams County:

Public Records Officer: Clerk of the Board / Adams County Board of Commissioners

210 W. Broadway, Ritzville, WA 99169
Phone: 509-659-3236
Fax: 509-659-3245
E-mail: clerkoftheboard@co.adams.wa.us

Information is also available at the Adams County's web site at: www.co.adams.wa.us

(3) The public records officer will oversee compliance with the act but another Adams County staff member may process the request. Therefore, these rules will refer to the public records officer "or designee." The public records officer or designee and Adams County will provide the "fullest assistance" to requestors; create and maintain for use by the public and Adams County officials an index to public records of Adams County, if applicable; ensure that public records are protected from damage or disorganization; and prevent fulfilling public records requests from causing excessive interference with essential functions of Adams County

WAC 44-14-030 Availability of public records. (1) Hours for inspection of records. Public records are available for inspection and copying during normal business hours of Adams County Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays. Records must be inspected at the respective office of Adams County.

(2) **Records index.** Adams County finds that maintaining an index is unduly burdensome and would interfere with Adams County operations due to the number and complexity of records generated as a result of the wide range of county activities; to limited staffing; and, to limited funding. Costs to maintain an index would exceed the anticipated benefits (Resolution No. R-64-02).

(3) **Organization of records.** Adams County will maintain its records in a reasonably organized manner and will take reasonable actions to protect records from damage and disorganization. A requestor shall not take Adams County's records from its respective offices without the permission of the public records officer or designee. A variety of records is available on Adams County's web site at: www.co.adams.wa.us. 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 Adams County should make the request in writing on the provided request form, or by letter, fax, or e-mail addressed to the public records officer and including the following information:

- Name and address of requestor;
- Other contact information, including telephone number and any e-mail address;
- Identification of the public records adequate for the public records officer including any applicable or identifying dates significant to the document(s).

(b) Pursuant to section **(RCW 42.17.300)**, standard photocopies will be provided at fifteen cents (\$.15) per page.

(c) A form is available for use by requestors at the office of the public records officer and on-line at: www.co.adams.wa.us.

(d) The public records officer or designee may accept requests for public records that contain the above information by telephone or in person. If the public records officer or designee accepts such a request, he or she will confirm receipt of the information and the substance of the request in writing.

WAC 44-14-040 Processing of public records requests--general.

(1) **Providing "fullest assistance."** Adams County is charged by statute with adopting rules which provide for how it will "provide full access to public records," "protect records from damage or disorganization," "prevent excessive interference with other essential functions of the agency," 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.

(2) **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:

- (a) Make the records available for inspection or copying;
- (b) if copies are requested and payment of a deposit, for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;
- (c) Provide a reasonable estimate of when records will be available; or (d) if the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification may be requested and provided by telephone. The public records officer or designee may revise the estimate of when records will be available; or
- (e) deny the request.

(3) **Consequences of failure to respond.** If Adams County 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.

(4) **Protecting rights of others.** In the event that the requested records contain information that may affect 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 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.

(5) **Records exempt from disclosure.** Some records are exempt from disclosure, in whole or in part. If Adams County 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 the exempt portions, provide the non-exempt portions, and indicate to the requestor why portions of the record are being redacted.

(6) **Inspection of records.**

(a) Consistent with other demands, Adams County 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.

(b) The requestor must claim or review the assembled records within thirty days following Adams County's 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 to make other arrangements, Adams County may close the request and refile 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.

(7) **Providing copies of records.** After inspection is complete, the public records officer or designee shall make the requested copies or arrange for copying.

(8) **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 the entire set of records or one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.

(9) **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 Adams County has completed a diligent search for the requested records and made any located non-exempt records available for inspection.

(10) **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 Adams County has closed the request.

(11) **Later discovered documents.** If, after Adams County has informed the requestor that it has provided all available records, Adams County becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

WAC 44-14-050 Reserved]

WAC 44-14-060 Exemptions. (1) The Public Records Act provides that a number of types of documents are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any "other statute" exempts or prohibits disclosure. Requestors should be aware of the following exemptions, outside the Public Records Act, that restrict the availability of some documents held by Adams County for inspection and copying, for example:

Victims of domestic violence under RCW 40.24.
Traffic accident reports under RCW 46.52.070.

Trade secrets under the Uniform Trade Secrets Act, chapter 19.108 RCW.
Disclosure of medical information under the Health Care Information Act, RCW 70.02.020(1).
Industrial insurance claims under RCW 51.28.

(2) Adams County is prohibited by statute from disclosing lists of individuals for commercial purposes.

WAC 44-14-070 Costs of providing copies of public records.

(1) **Costs for paper copies.** There is no fee for inspecting public records. A requestor may obtain standard paper copies for fifteen cents (\$.15) per page. Exceptions to this standard charge may be set by RCW or WAC and will be imposed for those specific documents. Exceptions to this standard cost may be assessed for larger copies such as engineering drawings, aerial maps, and surveys. A statement of the factors and the manner used to determine these additional charges is available from the public records officer.

Before beginning to make the copies, the public records officer or designee may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. Adams County will not charge sales tax when it makes copies of public records.

(2) **Costs for electronic records.** The cost of electronic copies of records shall be posted or made available by individual departments. If a paper document is requested to be converted to an electronic copy costs for scanning may be charged to the requestor.

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

(4) **Payment.** Payment may be made by cash, check, or money order to Adams County.

(5) **Use of outside vendor.** An agency is not required to copy records at its own facilities. An agency can send the project to a commercial copying center and bill the requestor for the amount charged by the vendor. An agency is encouraged to do so when an outside vendor can make copies more quickly and less expensively than an agency. An agency can arrange with the requestor for him or her to pay the vendor directly. An agency cannot charge the default fifteen cents per page rate when its "actual cost" at a copying vendor is less. The default rate is only for agency produced copies. RCW 42.17.300.

(6) **Sales tax.** An agency cannot charge sales tax on copies it makes at its own facilities. RCW 82.12.02525.

(7) **Costs of mailing.** If a requestor asks an agency to mail copies, the agency may charge for the actual cost of postage and the shipping container (such as an envelope). RCW 42.17.260(7)(a).

(8) **Examples of other charges.** The act generally governs copying charges for public records, but several specific statutes govern charges for particular kinds of records. RCW 42.17.305. 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); RCW 3.62.060 and 3.62.065 (charges for certain records of municipal courts); and RCW 70.58.107 (charges for birth certificates).

(9) **Waiver of copying charges.** Adams County has the discretion to waive copying charges. For administrative convenience, many departments may waive copying charges for small requests.

WAC 44-14-080 Review of denials of public records. (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 (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.

(2) **Consideration of petition for review.** The public records officer shall promptly provide the petition and any other relevant information to the public records officer's supervisor, if applicable, or to the Adams County Prosecutor. That person will immediately consider the petition and either affirm or reverse the denial within two business days following the receipt of the petition, or within such other time as Adams County and the requestor mutually agree to.

(3) **Judicial review.** Any person may obtain court review of denials of public records request pursuant to RCW 42.17.340 at the conclusion of two business days after the initial denial regardless of any internal administrative appeal.

SECTION 2. SEVERABILITY

If any section, sentence, clause or phrase of this ordinance should be held to be invalid or 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 3. EFFECTIVE DATE

This ordinance shall take effect and be in full force immediately after adoption.

SECTION 4. REPEALER

Ordinance No. O-01-06 is hereby repealed.

SECTION 5. CODE CHAPTER AMENDMENT

This ordinance amends Chapter 2.122 – Public Records Act – Model Rules in its entirety and is effective upon passage.

APPROVED this 14th day of May, 2012.

**BOARD OF COUNTY COMMISSIONERS
ADAMS COUNTY, WASHINGTON**

Rudy Plager, Chairman

Roger Hartwig, Vice-Chairman

Jeffrey W. Stevens, Commissioner

ATTEST:

Linda Reimer, MMC
Clerk of the Board

APPROVED AS TO FORM:

Randy J. Flyckt, Prosecutor