

Subject: Ordinance # 1584 – Adding a New Section To Chapter 9.20 of the Ruston Municipal Code to Add New Section 9.20.340: Endangerment With A Controlled Substance

Proposed Council Action:

This is on for Second Reading and Action.

Dept. Origin: Mayor’s Office/Police
Prepared by: Jennifer Robertson, Randi Shaffer
City Attorney’s Office
For Agenda of: October 15, 2024
Exhibits: Proposed Section 9.20.340; OFCO 2024 Report on Child Fatalities and Near Fatalities

Initial & Date

Concurred by Mayor: _____
Approved/form by City Atty: JSR/10-1-24
Approved by City Engineer: _____
Approved by Department Head: _____

INFORMATION / BACKGROUND

In recent years, the State of Washington has experienced a dramatic increase in incidents of children and dependent persons being exposed to controlled substances, including fentanyl, heroin, oxycodone, and other drugs. According to the Washington State Office of the Family and Children’s Ombuds’ (“OFCO”) 2024 report, “Child Fatalities and Near Fatalities in Washington State”, accidental ingestions and overdoses in children accounted for 20% of the fatalities (16 fatalities) and nearly 73% of the near fatalities (51 near fatalities) examined in 2023. Of the 67 incidents, 45 of those incidents occurred in children 11 years of age or younger, 20 involved accidental overdoses by youth between 11 and 22 years of age, and two involved intentional overdoses by youths ages 13 and 14.

Current state law includes a felony for endangerment with a controlled substance, which prohibits “knowingly or intentionally permit a child or dependent adult to be exposed to, ingest, inhale, or have contact with methamphetamine.” RCW 9A.42.100. The law does not address other controlled substances that are prevalent in current street drug use. In order to fix this gap in the law, in 2024, the Washington State Senate unanimously passed SB 5010 to include fentanyl and other synthetic opioids within RCW 9A.42.100. However, the bill died in the House Committee and was not enacted into law.

Because the increase in opioid exposure affects all communities, including the City of Ruston, the Pierce County Prosecuting Attorney adopted a local ordinance for endangerment with a controlled substance, making it a gross misdemeanor to knowingly or recklessly permit a child or dependent person to have contact with a controlled substance, other than cannabis. By passing its own Ordinance, the City of Ruston can address this issue head on, while also sending a signal to the state Legislature on the need to adequately update the felony statute.

This Ordinance authorizes the City to add a new section to the Ruston Criminal Code at 9.20 to establish a gross misdemeanor for endangerment with a controlled substance and provides for penalties of up to 364 days in jail or a maximum fine of \$5,000.00.

FISCAL IMPACT

Enforcement costs will be offset by the benefit to the community; processing of violations will occur in Fircrest Municipal Court which already facilitates Ruston's court needs.

RECOMMENDATION / MOTION

This matter is on for Second Reading and Action.

MOTION: I move approval of Ordinance No. 1584 relating to Title Nine of the Ruston Municipal Code, public peace and safety, and adding a new Section 9.20.340 endangerment with a controlled substance; providing for severability and corrections; and establishing an effective date.

ORDINANCE NO. 1584

**AN ORDINANCE OF THE CITY OF RUSTON,
RELATING TO TITLE NINE OF THE RUSTON
MUNICIPAL CODE, PUBLIC PEACE AND SAFETY,
AND ADDING A NEW SECTION 9.20.340
ENDANGERMENT WITH A CONTROLLED
SUBSTANCE; PROVIDING FOR SEVERABILITY
AND CORRECTIONS; AND ESTABLISHING AN
EFFECTIVE DATE.**

WHEREAS, the misuse of controlled substances in Washington State, including the City of Ruston, has become a significant public health crisis, leading to severe health outcomes such as addiction, overdoses, and deaths among community members; and

WHEREAS, according to the Children’s Safety Network, in 2020, unintentional poisoning was the second leading cause of unintentional injury deaths for children and adolescents aged 1 - 19 years in the United States, with drug poisoning accounting for 73 percent of unintentional poisoning deaths in children aged 0-9 and 96 percent in adolescents aged 10-19; and

WHEREAS, drug poisonings in Washington State have escalated steadily since 2014, with a 30 percent increase from 2019 to 2020, another 30 percent from 2020 to 2021, and a 17 percent increase from 2021 to 2022, according to the University of Washington Addictions, Drug, and Alcohol Institute; and

WHEREAS, opioid addiction has created a public health crisis in Pierce County, with opioid related overdoses becoming the leading cause of accidental deaths, as reported by the Tacoma-Pierce County Health Department; and

WHEREAS, controlled substances are available in various forms, including powders, pills, candies, eye droppers, and nasal sprays, making them difficult to identify and highly dangerous due to unregulated sources; and

WHEREAS, the potency and danger of these controlled substances are unpredictable, posing significant health risks not only to users but also to their families and members of the public who may be exposed inadvertently or through secondhand contact; and

WHEREAS, these risks are particularly acute for children and other dependent persons who may inadvertently come into contact with controlled substances in their homes or communities; and

WHEREAS, 1 in 8 children nationwide aged 17 or younger lived in households with at least one parent with a history of substance use disorder, according to a 2014 report by the Substance Abuse and Mental Health Services Administration (SAMHSA); and

WHEREAS, fentanyl, a synthetic opioid, is up to 50 times more potent than heroin and other synthetic opioids, and the ease of its illicit manufacture has led to it being mixed with other street drugs such as heroin, cocaine, and methamphetamine, increasing the risk of overdose; and

WHEREAS, the Washington State Office of the Family and Children's Ombuds reported in 2024 that accidental ingestions and overdoses accounted for 20% of child fatalities (16 fatalities) and nearly 73% of child near fatalities (51 near fatalities) examined between January 1, 2023, and December 31, 2023; and

WHEREAS, young children are particularly at risk, with 45 of the 67 incidents involving accidental ingestions by children 11 years of age or younger, while 20 incidents involved accidental overdoses by youths between 11 and 22 years of age, and two incidents involved intentional overdoses by youths aged 13 and 14; and

WHEREAS, fentanyl was involved in 85% of these critical incidents, accounting for 39 of the 45 accidental ingestions by children 11 years of age or younger and 18 of the 20 accidental overdoses by youths between 11 and 22 years of age; and

WHEREAS, for those who survive exposure, an overdose can result in severe and long-term medical complications, including cognitive impairment, brain injury, and cardiac arrhythmia; and

WHEREAS, exposure to controlled substances presents a grave threat to the health and safety of all residents of the City of Ruston, particularly children and dependent persons who may be in close proximity to individuals using controlled substances; and

WHEREAS, it is essential to establish sufficient mechanisms to hold individuals accountable when children and dependent persons are exposed to life-threatening harms due to controlled substances; and

WHEREAS, the Ruston City Council finds that the passage of this Ordinance supports and furthers the interest in the public health, safety and welfare; and

WHEREAS, the Ruston City Council held first reading of this Ordinance on October 1, 2024 and adopted this Ordinance at Second Reading on October 15, 2024; **NOW, THEREFORE,**

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

Section 1. Findings. The findings and recitals set forth above are hereby adopted and incorporated herein by this reference.

Section 2. New Section Added. Chapter 9.20.340 Endangerment with a Controlled Substance, a new section in the Ruston Municipal Code is hereby codified to read as follows:

9.20.340 – Endangerment with a Controlled Substance

- (a) Definitions. For the purpose of this Section, the following terms shall apply
1. “Cannabis” shall mean the same as the term is defined in RCW 69.50.101.
 2. “Child” shall mean the same as the term is defined in RCW 9A.42.010.
 3. “Controlled substance” shall mean the same as the term is defined in RCW 69.50.101.
 4. “Dependent person shall mean the same as the term is defined in RCW 9A.42.010.

(b) Endangerment with a Controlled Substance.

1. A person is guilty of the crime of endangerment with a controlled substance if the person knowingly or recklessly permits a child or dependent person to ingest, inhale, absorb, or have contact with a controlled substance other than cannabis, unless the controlled substance was obtained directly from, or pursuant to, a valid prescription or order of a medical practitioner while acting in the course of his or her professional practice.
2. Administering or providing a controlled substance to a child or dependent person in the course of delivering health care services is not a violation of this Section.

(c) Penalty for Violations.

Unless otherwise specified, any person who violates this Section is guilty of a gross misdemeanor punishable by up to 364 days in jail and a \$5,000 fine. The Prosecuting Attorney is encouraged, if available, to consider referring such cases for assessment, treatment, and other services including referral to alternative resolution courts following the formal filing of charges.

(d) Preemption.

In the event the Washington State Legislature passes a law preempting this Section, this Section shall cease to have effect on the same date the statute comes into effect. Any violation of this Chapter that occurs prior to the preempting statute coming into effect may be prosecuted and punished pursuant to this Section.

(e) Severability.

If any provision of this Section or its application to any person or circumstance is held invalid, the remainder of this Section or the application of the provisions to other persons or circumstances is not affected.

Section 3. 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 unconstitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 4. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 5. Corrections. Upon the approval of the city attorney, and/or the city clerk, the code publisher is authorized to make any necessary technical corrections to this ordinance, including but not limited to the correction of scrivener's/clerical errors, references, ordinance number, section/subsection, and any reference thereto.

Section 6. 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 ___ day of _____, 2024.

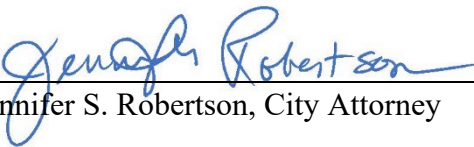
APPROVED by the Mayor this ___ day of _____, 2024.

Bruce Hopkins, Mayor

ATTEST/AUTHENTICATED:

Judy Grams, City Clerk

APPROVED AS TO FORM:



Jennifer S. Robertson, City Attorney

FILED WITH THE CITY CLERK: _____
PASSED BY THE CITY COUNCIL: _____
PUBLISHED: _____
EFFECTIVE DATE: _____
ORDINANCE NO.: 1584