

ORDINANCE NO. 1472

**AN ORDINANCE OF RUSTON, WASHINGTON,
AMENDING THE RUSTON ZONING CODE TO REPEAL
CHAPTER 25.04 OF THE RUSTON MUNICIPAL CODE
“MEDICAL CANNABIS” TO DISALLOW SUCH LAND USE
AND AMENDING THE LAND USE MATRIX SECTION
25.07.020 OF THE RUSTON MUNICIPAL CODE TO
REFLECT THE REPEAL OF MEDICAL CANNABIS AND
DISALLOWANCE OF SUCH LAND USE WITHIN RUSTON,
AND ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, ESSB 5073 (the Act) effective on July 22, 2011 amended Chapter 69.51A RCW (the Medical Cannabis Act) and authorized "collective gardens" which allowed certain qualifying patients to produce, grown and deliver cannabis for medical use; and

WHEREAS, the City Council adopted Ordinance No. 1364 on April 17, 2012 adopting Chapter 25.04 of the Ruston Municipal Code entitled “Medical Cannabis” to permit collective gardens in certain zones in the City with established performance standards; and

WHEREAS, Washington voters approved Initiative 502 (1-502) on November 6, 2012. In relevant part, 1-502 legalized the possession of small amounts of marijuana and marijuana-related products for persons age 21 and older, and directed the state liquor control board to develop and implement rules to regulate and tax recreational Marijuana producers, processors, and retailers; and

WHEREAS, marijuana is still classified as a schedule I controlled substance under federal law and crimes related to marijuana remain subject to prosecution under federal law; and

WHEREAS, on August 29, 2013, the United States Department of Justice, Office of the Attorney General, (DOJ) released updated guidance regarding marijuana enforcement. The guidance reiterates that DOJ is committed to using its limited investigative and prosecutorial

resources to address the most significant threats to public safety related to marijuana crimes in “the most effective, consistent, and rational way.” The guidance directs federal prosecutors to review potential marijuana-related charges on a case-by-case basis and weigh all information and evidence, including whether the operation is demonstrably in compliance with a strong and effective state regulatory system and if the conduct at issue implicates one or more of the eight stated federal enforcement priorities. The DOJ appears to not differentiate application of the guidance between medical cannabis and recreational marijuana; and

WHEREAS, in a joint statement dated August 29, 2013, Governor Jay Inslee and Attorney General Bob Ferguson stated the following:

“Today we received confirmation Washington’s voter-approved marijuana law will be implemented. We received good news this morning when Attorney General Eric Holder told the governor the federal government would not pre-empt Washington and Colorado as the states implement a highly regulated legalized market for marijuana. Attorney General Holder made it clear the federal government will continue to enforce the federal Controlled Substance Act by focusing its enforcement on eight specific concerns, including the prevention of distribution to minors and the importance of keeping Washington-grown marijuana within our state’s borders. We share those concerns and are confident our state initiative will be implemented as planned. We want to thank the Attorney General for working with the states on this and for finding a way that allows our initiative to move forward while maintaining a commitment to fighting illegal drugs. This reflects a balanced approach by the federal government that respects the states’ interests in implementing these laws and recognizes the federal government’s role in fighting illegal drugs and criminal activity.”

; and

WHEREAS, on January 14, 2014, the Washington State Attorney General’s Office issued its opinion (AGO No. 2014) that 1-502 does not preempt counties, cities, and towns from banning recreational marijuana within their jurisdictions and that local ordinances that do not expressly ban state licensed marijuana licensees from operating within the jurisdiction but make such operation impractical are valid if they properly exercise the local jurisdiction’s police power; and

WHEREAS, several state courts have issued decisions that approve and affirm the Attorney General's opinion that cities have the authority to regulate marijuana uses; and

WHEREAS, on April 24, 2015, the Washington State Legislature passed and Governor Inslee signed into law SSSB 5052, The Cannabis Patient Protection Act and SSHB 2136 reconciling the state medical and recreational marijuana programs, including disallowing unlicensed medical uses by July 1, 2016; and

WHEREAS, the City Council deems it to be in the public interest to repeal the collective garden "medical cannabis" chapter now prior to the state law banning such use takes effect; and

WHEREAS, the City has a compelling interest in the protection of the health and safety of all its residents, as well as a compelling interest in ensuring that the goals and policies contained within the Comprehensive Plan and other policy/planning documents are fulfilled; and

WHEREAS, the City's SEPA Responsible Official has determined that this Ordinance is exempt from SEPA under WAC 197-11-800(19); and

WHEREAS, the City sent a copy of this Ordinance to the Washington State Department of Commerce on October 9, 2015 with a request for expedited review as per WAC 365-195-620(1) and RCW 36.70A.106 which was granted and the requisite time has passed and this Ordinance is ready for passage on or before the date set for Second Reading by the Council; and

WHEREAS, the Planning Commission held a public hearing on October 28, 2015, for the proposed Zoning Code Amendment contained herein; and

WHEREAS, the Planning Commission recommends APPROVAL of this ordinance; and

WHEREAS, the City Council finds that the proposed amendments are consistent with the Comprehensive Plan, enhance the public health, safety, and welfare, and are not contrary to the best interest of the citizens and property owners of the City of Ruston; and

WHEREAS, the City of Ruston has complied with the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, and the City's Environmental Procedures Code, Chapter 15.02 RMC; and

WHEREAS, the Ruston City Council held First Reading of this Ordinance on November 3, 2015; and

WHEREAS, the Ruston City Council adopted this Ordinance during Second Reading at a Regular City Council Meeting; **NOW, THEREFORE,**

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

Section 1. Repeal. Chapter 25.04 of the Ruston Municipal Code "Medical Cannabis" is hereby repealed in its entirety.

Section 2. Section 25.07.020 of the Ruston Municipal Code is hereby amended to read as follows:

25.07.020 - Land use matrix.

Uses	RES	COM	COM-P
Dwelling, Accessory	C	P ¹	P ¹
Dwelling, Single-Family	P	P ¹	P ¹
Dwelling, Duplex	C	P ¹	P ¹
Dwelling, Triplex	C	P ¹	P ¹
Dwelling, Multi-Family	C	P ¹	P ¹
Automotive Fuel Dispensing Facility	-	C ²	C ²
Adult Day Care	-	P ⁹	P ⁹
Adult Entertainment Facility	-	-	C ³

Adult Family Home	P	P	P
Airport, Heliport or Airfield	-	-	-
Church	C ⁴	P	P
Collective Gardens (Medical Cannabis)	==	== P¹⁰	== P¹⁰
Commercial Parking Lot	C ⁵	C ⁵	C ⁵
Commercial Child Care	-	P ⁹	P ⁹
Drive-Through Facility	-	C ⁶	C ⁶
Family Day Care Home	C	-	-
Government Facilities	C	P	P
Home Occupation	P	P	P
Hospital	-	C	C
Hotel	C	P	P ⁷
Light Industrial	-	C	C
Mobile/Manufactured Home	C	-	-
Mobile Home Park	C	-	-
Motel	C	P	P
Nursing, Convalescent or Retirement Home	-	P ⁸	P
Park	P	P	P
Professional Office	C	P	P
Public and Private Schools	-	P	P
Recreational Facility	-	P	P
Restaurant	-	P	P

Sales Level 1	-	P	P
Sales Level 2	-	-	-
Services Level 1	-	P	P
Services Level 2	-	C	C
Services Level 3	-	-	-
Transportation and Utility Facilities	C	C	C
Accessory Uses and Structures	P	P	P

¹ Single and multiple-unit dwellings are permitted in the COM and COM-P zones provided that they are located above retail space occupying the entire first floor and have separate, direct access to the sidewalk.

² An automotive fuel facility may not be located closer than 500 feet from another automotive fuel facility.

³ Subject to Chapter 25.05 RMC, Adult Entertainment Facilities.

⁴ Provided that buildings do not cover more than 20 percent of the lot; and no buildings, active play area or parking lot is closer than 20 feet to any residential lot.

⁵ Commercial parking lots are allowed only as an accessory to another permitted or conditional use and must be located below grade.

⁶ Drive-through facilities are not permitted between the front of a structure and any right of way and must have one point of access from an alley.

⁷ Hotels may not have more than 15 rooms.

⁸ Facilities may have no more than 30 beds.

⁹ Facilities may not exceed a maximum occupancy of 50 persons.

¹⁰ ~~Subject to Chapter 25.04 RMC, Medical Cannabis.~~

Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful 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 4. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 5. Effective Date. This Ordinance shall take effect and be in full force and effect five days after publication, as provided by law.

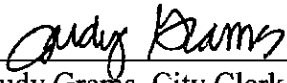
ADOPTED by the City Council of the City of Ruston and attested by the City Clerk in authentication of such passage on this 17th day of November, 2015.

APPROVED by the Mayor this 17th day of November, 2015.



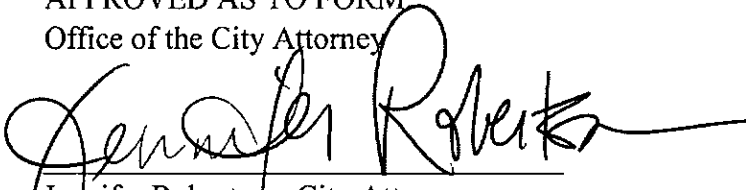
Bruce Hopkins, Mayor

ATTEST/AUTHENTICATED:



Judy Grams, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney



Jennifer Robertson, City Attorney

FILED WITH THE CITY CLERK _____

PASSED BY THE CITY COUNCIL: _____

PUBLISHED: _____

EFFECTIVE DATE: _____

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