

## ORDINANCE NO. 991

### AN ORDINANCE OF THE RUSTON TOWN COUNCIL REPEALING ORDINANCE NUMBERS 542, 545, 560, 597, 623, 639, 681, 709, 798, 826, 906, 909, 922, AND 938 AND REPLACING CHAPTER 25.01 (ZONING CODE)

Section 1. Ordinance No. 542, adopted July 20, 1964; Ordinance No. 545, adopted November 2, 1964; Ordinance No. 560, adopted August 15, 1966; Ordinance No. 597, adopted September 15, 1969; Ordinance No. 623, adopted December 6, 1971; Ordinance No. 639, adopted February 20, 1973; Ordinance No. 681, adopted March 7, 1977; Ordinance No. 709, adopted November 19, 1979; Ordinance No. 798, adopted September 15, 1986; Ordinance No. 826, adopted November 7, 1988; Ordinance No. 906, adopted August 16, 1993; Ordinance No. 909, adopted August 16, 1993; Ordinance No. 922, adopted January 3, 1994; and Ordinance No. 938, adopted November 7, 1994, are hereby repealed.

Section 2. The existing Ruston Municipal Code Chapter 25.01 is hereby repealed and replaced with a new Ruston Municipal Code Chapter 25.01 as follows:

#### TOWN OF RUSTON CHAPTER 25.01 ZONING

##### Sections:

- 25.01.010 Purpose and Regulatory Compliance.**
- 25.01.020 Definitions.**
- 25.01.030 Purpose and Establishment of Zones.**
- 25.01.040 Residential (RES) Zone.**
- 25.01.050 Commercial (COM) Zone.**
- 25.01.060 Master Planned Development (MPD) Zone.**
- 25.01.070 Natural Systems.**
- 25.01.080 Erosion and Sedimentation Control, Storm Water Retention and Groundwater Discharge.**
- 25.01.090 Parking Requirements.**
- 25.01.100 Signing and Lighting.**
- 25.01.110 Conditional Uses, Unclassified Uses and Variances.**
- 25.01.120 Non-Conforming Buildings and Uses.**
- 25.01.130 Rezones.**
- 25.01.140 Administration, Site Plans, Appeals and Amendments.**

#### **25.01.010 PURPOSE AND REGULATORY COMPLIANCE.**

##### A. Purpose.

This "Ruston Zoning Code" is an official land use control adopted under Chapter 36.70A.63 RCW, to serve the public health, safety and welfare, to provide for orderly planned use of land resources, and to further the policies of the Comprehensive Plan of the Town of Ruston. This Code governs all uses of land within the Town, including use of buildings, streets, utilities, open space and other physical amenities. This Code is intended to be consistent with the Town's Comprehensive Plan and serves to implement the goals and policies of the Plan.

##### B. Regulations of the Zoning Code.

All land uses in the Town of Ruston must comply with the applicable requirements of this Code, including requirements of this and other relevant codes.

C. Zoning Map.

Boundaries of the various zones are shown on the zoning map on file with the Mayor. Zone boundaries may be changed by Town ordinance.

D. Other Land Use Laws and Regulations.

This Code is intended to supplement, but avoid unnecessary duplication with, all other applicable federal, state, regional and local laws and regulations, including but not limited to the following:

1. State Subdivision Law: Subdivision of property is subject to the requirements of the State Subdivision Act, Chapter. 58.17 RCW, and the Town's subdivision ordinance. Certain light industrial and commercial developments may utilize the binding site plan provisions of the subdivision act.
2. State Environmental Policy Act: All land uses are subject to the State Environmental Policy Act (SEPA), Chapter. 43.21C RCW, as implemented by State Regulations, Chapter. 197-11 WAC, and the Town's SEPA ordinance.
3. Shoreline Management Act: Land uses within "shorelines" are subject to the State Shoreline Management Act (SMA), Chapter 90.58 RCW, as implemented by State Regulations, Chapter. 173-14 WAC, and the Town's Shoreline Master Program.
4. Water Pollution: Water pollution is regulated under the federal and State Clean Water Acts, and the implementing regulations of the State Department of Ecology.
5. Air Pollution: Air pollution is regulated under the federal Clean Air Act and federal Environmental Protection Agency (EPA) regulations, by the State Clean Air Act, Chapter. 70.04 RCW, and implementing DOE regulations, and by the Puget Sound Air Pollution Control Authority.
6. Hazardous Waste: Hazardous wastes are regulated under federal laws and regulations, the State Hazardous Waste Disposal Act of 1976 and implementing DOE regulations.
7. Uniform Building Codes: Mechanical, plumbing, electrical and building as adopted by the Town Council.
8. Other Regulations: Numerous other federal, State and local regulations regulate various aspects of land use in the Town, including those relating to construction, dredging and filling in navigable waters (U.S. Army Corps of Engineers), solid waste (DOE), radioactivity (Nuclear Regulatory Commission), pesticides (EPA and State Department of Agriculture), drinking water quality (EPA and State Department of Social and Health Services, sewage (DOE and DSHS), fire protection and suppression (State Fire Marshal and DNR), surface mining (DNR), and noise (DOE).
9. Standard Plans and Specifications for Road, Bridge and Municipal Construction by the Washington State Department of Transportation as adopted by the Town Council.

E. Mayor's Duties.

The Mayor or his or her designee is authorized to administer and interpret this code. Violations shall be administratively addressed by him/her where compliance can be obtained without legal action.

**25.01.020 DEFINITIONS.**

**Accessory Building:** A structure incidental to a permitted principal use, provided that such use or structure shall be located on the same lot as the principal structure.

Accessory Living Quarters: Living quarters within an accessory building or the principal structure shall be for the - used solely for the use of the family or of persons employed on the premises, or for the temporary use of guests of the occupants of the premises. Such quarters shall have no kitchen facilities and are not rented or otherwise used as an auxiliary separate dwelling unit.

Accessory Use: A use, a building or structure, part of a building or structure, which is subordinate to, and the use of which is incidental to, that of the main building, structure or use on the same lot, including private garages, storage sheds, and greenhouses.

Adjacent Districts: One use district is considered adjacent to another if they share a property line or touch at a common point. Use districts are also considered adjacent if they are across a street or alley from one another and within 100 feet of each other. When adjacency applies across a street or alley, the conditions associated with being adjacent shall apply to the first 100 feet of the district in question as measured from the right of way line.

Adult Theater: Any theater which is providing entertainment through the showing of motion picture films or live performances predominantly distinguished or characterized by their emphasis on matter explicitly depicting sexual activities.

Airport, Heliport or Air Field: Any runway, landing area or other facility whether publicly or privately owned and operated, which is designed, used, or intended to be used either by public carriers or by private aircraft for landing and taking off of aircraft, including all necessary taxiways, aircraft storage and tie-down areas, hangars and other necessary buildings and open spaces, but not including manufacturing, servicing or testing facilities located in the vicinity of any landing area associated with the manufacturing or testing of commercial or military aircraft or activities associated therewith.

Alley: An improved thoroughfare or right-of-way, whether public or private, usually narrower than a street, that provides vehicular access to an interior boundary of one or more lots, and is not designed for general traffic circulation.

Alteration: Any change, addition or modification in construction or occupancy or any change, addition or modification to a site, building or occupancy.

Amendment: A change in the wording, context or substance of this Zoning Code, or change in the zone boundaries on the zoning map that must be adopted by the Town Council as an ordinance.

Apartment: A building or a portion of a building arranged or designed to be occupied by three or more families living independently of each other.

Automobile Repair, Major: Rebuilding or reconditioning of motor vehicles or trailers including trucks over one and one-half tons capacity; collision service including body, frame or fender straightening or repair; overall painting or paint shop; automobile wrecking when within an enclosed building.

Automobile Repair, Minor: General motor repair, replacement of new or reconditioned parts to passenger automobiles and trucks not exceeding one and one-half tons capacity, but not including any operations specified under "Automobile Repair, Major"

Automobile Service Station: A use which provides for the servicing of passenger automobiles and trucks not exceeding one and one-half tons capacity and operations incidental thereto, but not including body repair, painting, or automobile wrecking.

Automobile Wrecking: Any dismantling or wrecking of motor vehicles or trailers, or the storage, sale or dumping of dismantled or wrecked vehicles or their parts.

Auxiliary Dwelling Unit: A room or set of rooms in a single family home that has been designed or configured to be used as a separate dwelling unit. It generally includes separate living, sleeping, kitchen and bathroom facilities and has a lockable entrance door.

Auxiliary Dwelling Units are a separate additional living unit, including separate kitchen, sleeping, and bathroom facilities, attached or detached from the primary residential unit, on a single-family lot.

A. Attached. Attached auxiliary dwelling units, contained within a single-family home, are usually known as mother-in-law or accessory apartments or second units. Attached auxiliary dwelling units usually involve renovation of a basement, attached shed or garage, or similar space in single-family home.

B. Detached. Detached Auxiliary Dwelling Units are structurally independent from the primary single-family dwelling and are a habitable living unit that provides basic requirements for living, sleeping, eating, cooking and sanitation.

Basement: A story of a building that is greater than 50% underground.

Best Management Practices: Conservation practices or systems of practices and management measures that control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment; and minimize adverse impacts to surface water and groundwater flow, to circulation patterns, and to the chemical, physical, and biological characteristics of wetlands.

Boarding House: A building, other than a hotel, where meals and/or rooms or lodging are provided for compensation for not more than 12 persons other than the family. Boarding house is the same as lodging or rooming house, but shall not include rest homes or convalescent homes.

Buffer: A unit of land, together with a specified type and amount of landscaping, which may be required between land uses to eliminate or minimize conflict between them.

Buffer, wetland: An area which is an integral part of a stream or wetland ecosystem or which provides shading, input of organic debris and coarse sediments, room for variation in stream or wetland boundaries, habitat for wildlife, and protection from harmful intrusion as necessary to minimize public harm suffered when the functions and values of wetlands are degraded.

Building: Any structure for the support, shelter or enclosure of persons, animals, mechanical devices, or property of any kind.

Building Enclosed: A building enclosed on all sides with wall and roof and having no openings other than closeable, glazed windows and doors and vents.

Building Envelope: The area of a lot that delineates the limits of where a building would be placed on the lot.

Building Site: A parcel of land assigned to a use, to a main building, or to a main building and its accessory buildings, together with all yards and open spaces required by this Zoning Code. A building site may be comprised of one lot, a combination of lots, or a combination of lots and fractions of lots.

Bulk: The size and location of buildings and structures in relation to the lot. Bulk regulations generally include height of building, lot area, front, side and rear yards, and lot coverage.

Church: An establishment which is principally devoted to religious worship, which may include accessory uses such as Sunday School rooms, religious education classrooms, assembly rooms, a library, and residences on site for clergy.

Classification: Defining categories to which natural resource lands and critical areas are assigned.

Clinic: A building or portion of a building containing offices for providing medical, dental, psychiatric or chiropractic services for outpatients only, but not including the sale of drugs or medical supplies.

Commercial (business): The purchase, sale, offering for sale, or other transaction involving the handling or disposition of any article, service, substance or commodity for livelihood or profit; or the management, occupancy, or maintenance of recreational or amusement enterprises, office buildings, offices, structures or premises by professions and trades or persons rendering services.

Conditional Use: A use listed among those classified in any given zone but permitted to locate only after review by the Town Council and the granting of a conditional use permit which review shall ensure that the use, if approved, will be compatible with other permitted uses in the same vicinity and zone.

Condominium: The division of a building or land pursuant to the Horizontal Property Regimes Act, Chapter 64.32 RCW.

Convenience Store: Any retail establishment offering for sale prepackaged food products, household items, newspapers, magazines, sandwiches or freshly prepared foods, such as salads, for off-site consumption.

Country Club: An incorporated or unincorporated association of persons organized for social and recreational purposes, such as golf clubs, tennis clubs, etc.

Critical Areas: One or a combination of wetlands, critical aquifer recharge areas, frequently flooded areas, geologically hazardous areas, and fish and wildlife habitat conservation areas.

Critical Aquifer Recharge Area: Those areas that have been identified as having a critical recharging effect on aquifer use for potable water in community water systems.

Day Care Centers, Nurseries, Kindergarten Centers: A facility operated by any person, firm, association, or other business entity which regularly provides care in other than a family setting to a group of 13 or more children, whether for compensation or not.

Dedication: The transfer of property interests from private to public ownership for a public purpose. The transfer may be a fee-simple interest or of a less than fee interest, including an easement.

Designation: Formal adoption of a policy statement which establishes, for planning purposes: the classification scheme; the general distribution, location and extent of the uses of land, where appropriate, for agriculture, forestry, and mineral extraction; and the general distribution, location and extent of critical areas.

Development: The construction or reconstruction of a structure or other modifications of the natural landscape above and below ground or water on a particular site.

Drive-In Facility: A use or occupancy of commercial premises where all or a substantial portion of the business will consist of consumption of food or beverage in or about motor vehicles temporarily parked on the premises

Drive-Through Facility: A use or occupancy of commercial premises where the purchaser of the goods or services offered will operate a motor vehicle on the premises in the course of receiving the same.

Duplex: A detached building containing two dwelling units.

Dwelling: Any building or portion thereof which is designed or used for residential purposes.

Dwelling, Multiple-Family: A building or portion thereof containing two or more dwelling units and does not include Auxiliary Dwelling Units or Accessory Living Quarters.

Dwelling, Single-Family: A detached building containing one dwelling unit.

**Dwelling Unit:** A room or rooms located within a building, designed, arranged, occupied or intended to be occupied by not more than one family as living accommodations independent of any other family. The existence of a food preparation/sanitation area within such room or rooms shall be evidence of the existence of a dwelling unit.

**Easement:** The authorization by a property owner of the use by another and for a specified purpose of any designated part of his property.

**Erosion:** The process by which soil particles are mobilized and transported by natural agents such as wind, rain, frost, or surface water flow.

**Excavation:** Any action by which any rocks, sand, gravel, stone, earth, topsoil, peat, minerals or other natural resources are removed for the purpose of disposition away from the immediate premises whether such disposition is immediate or in the future.

**Exterior Storage:** The storage of fuel, raw materials, products, and equipment outside of an enclosed building.

**Family:** One or more persons related by blood, marriage, adoption or guardianship, or not more than four persons not so related, except servants, occupying a dwelling unit and living as a single housekeeping unit.

**Family Day Care Home:** A child day care facility located in the family abode of the person or persons under whose direct care and supervision the child is placed, for the care of 12 or fewer children, including children who reside at the home.

**Fast Food Restaurant:** An establishment whose principal business is the sale of food and/or beverages in a ready-to-consume state for consumption within the restaurant building, within a motor vehicle parked on the premises, or off the premises as carry-out orders, and whose principal method of operation includes the following characteristics: food and/or beverages usually served in edible containers or on paper, plastic or other disposable containers.

**Fence:** A masonry wall or a barrier composed of posts connected by boards, rails, panels, or wire for the purpose of enclosing space or separating parcels of land, but not including retaining walls.

**Fill:** The depositing on land, whether submerged or not, of sand, gravel, earth, or other materials of any composition whatsoever.

**Fish and Wildlife Habitat Conservation Areas:** All lands with priority species, priority habitats and habitats of species of local importance as defined by the Washington Department of Wildlife; naturally occurring ponds over one-half acre and their wildlife habitat; lakes, ponds, streams, and rivers planted with game fish defined by RCW 77.09.020.

**Fourplex:** A detached building containing four dwelling units.

**Frequently Flooded Areas:** Floodplains and other areas subject to a one percent or greater chance of flooding in any given year also known as a "100 year flood."

**Front Yard:** See Yard Front.

**Frontage, Street:** See Street Frontage.

**Garage, Private:** A sheltered or enclosed space designed and used for storage of items including but not limited to: motor vehicles, boats and trailers of the residents of the premises.

**Garage, Public:** A building or portion thereof designed and used for storage, repair or servicing of motor vehicles or boats as a business.

Garage: A building or portion of it designed and used for storage of tools, building materials, and miscellaneous items and storage and repair or service of motor vehicles.

Geologically Hazardous Areas: Areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to development.

Grading: The movement of earth or soil or other activity which is intended to create a building grade.

Gross Floor Area: All interior building areas, excluding parking and mechanical areas.

Height (of a Building or Structure): The vertical distance measured from the lot grade to the highest point of the roof surface of a flat or mansard roofed building or to the height of the highest gable of a pitch or hipped roofed building.

Heliport: See Airport

Home Occupation: Any business, profession, occupation, or trade located entirely within a residential building, or structure accessory thereto, which use is incidental and secondary to the use of the building for dwelling purposes and does not change the essential residential character or appearance of such building.

Homeowner's Association: A group of persons organized as an association, corporation or other entity which represents homeowners residing in a subdivision or other development entity. A homeowner's association need not have any official status as a separate legal entity under the laws of the State of Washington.

Hospital: An institution, whether a building or group of buildings, designed and used for the medical and surgical diagnosis and treatment (temporary and emergency services included) and housing of persons under the care of doctors and nurses providing general medical care, as distinguished from treatment of mental and nervous disorders and alcoholics, and specifically excluding rest homes, nursing homes, and convalescent homes.

Hotel: A building or portion thereof designed or used for the lodging with or without meals of six or more persons for compensation. A central kitchen and dining facility and accessory shops and services catering to the general public may be provided. Institutions housing persons under legal restraint or requiring medical attention or care shall not be considered hotels.

Illegal Non-conforming Use: A non-conforming use such as a multifamily structure which was has not been legally permitted through variance or special use permit and was not in conformance with the zoning code and/or relevant building regulations in force at the time of construction.

Impervious Surfaces: A surface which does not absorb water, including buildings, parking areas, driveways, roads, sidewalks, and any areas of concrete or asphalt.

Infrastructure: Includes water, sanitary sewer, roads (including sidewalks), storm sewer, electrical systems, street lighting and similar systems.

Interior Lot Line: The boundary line of a lot which separates one lot from another.

Legal Non-conforming Use: A non-conforming use such as a multi family structure which was legally established through special permit such as a variance or which was constructed in conformance and compliance with the zoning code in effect at the time of construction.

Light Industrial: Light industrial developments involve research and technological processes and the processing and handling, and creating of products all of which are distinguished from heavy industrial fabrication since they are largely devoid of nuisances or hazards.

Lot: A platted or unplatted parcel of land unoccupied, occupied or intended to be occupied by a principal use or building and accessory buildings, together with such yards and open spaces as are required by the zoning code, which has direct legal access to a street or has access to a street over an easement approved by the Town.

Lot Area: The area within the boundary lines of a lot.

Lot Coverage: That portion of a lot occupied by the principal building and its accessory buildings, including all structures greater than three feet in height.

Lot Grade Grade (lot): The average level of the existing undisturbed native soil at the center of all walls of a building shall be considered average grade level. In case walls are parallel to and within five feet of a sidewalk, the above ground level shall be measured at the sidewalk. For the purposes of this definition soil replaced as part of a United States Environmental Protection Agency Superfund cleanup shall be considered "existing undisturbed native soil" provided that the replacement soil is added at the same elevation as the removed soil. For the purposes of this section, the U.S. E.P.A. Superfund Cleanup finished excavation, fill, final grading and completion of land work shall be considered existing native soil for the purpose of building height requirements as specified by the Town of Ruston.

Lot Line: The boundary lines of a lot.

Lot of Record: A single platted lot which is a part of a plat which has been recorded as required by the laws of the State of Washington, in the office of the Auditor of the County of Pierce.

Manufactured Home: A dwelling unit constructed after June 15, 1976 in accordance with United States Department of Housing and Urban Development requirements for manufactured housing and bearing the appropriate insignia indicating such compliance.

Maps (critical areas): Those maps maintained by the Town of Ruston for the purpose of graphically depicting the boundaries of resource land and critical areas.

Mayor: The Mayor of the Town of Ruston or the Mayor's designee.

Mineral Lands: Lands of long-term commercial significance for the extraction of aggregate and mine resources, including sand, gravel, and valuable metallic substances.

Mixed-Use Occupancy (or Structure): A building designed or intended to be used for more than one type of principal use, e.g., retail and office uses.

Mobile home: A dwelling unit transportable in one or more sections that are eight feet or more in width and thirty two feet or more in length, built on a permanent chassis, designed to be used as a permanent dwelling unit and constructed before June 15, 1976.

Mobile Home Park: A parcel of land designed and improved to accommodate two or more mobile homes on a permanent basis.

Modular Home: A dwelling unit constructed in a factory in accordance with the Uniform Building Code and bearing the appropriate fold insignia indicating such compliance, The term includes "pre-fabricated, "panelized" and "factory-built" units.

Motel: A group of attached or detached buildings containing individual sleeping units, a majority of such units open individually and directly to the outside, including tourist courts, motor courts, and motor lodges.

Multiple-Use Project: A development containing two or more principal uses located in one or more structures.

Non-conforming Building: A building which was lawfully established and maintained but which, because of the application of this zoning code, no longer conforms to the use regulations of the zone in which it is located.

Non-conforming Use: A use which was lawfully established and maintained but which, because of the application of this zoning code, no longer conforms to the use regulations of the zone in which it is located.

Nursery or Garden Center: An enterprise which conducts the retail and wholesale sale of plants, as well as accessory items directly related to plant care and maintenance (excluding farm equipment).

Nursing, Convalescent or Retirement Home: An establishment which provides full-time convalescent or chronic care or both for three or more individuals who are not related by blood or marriage to the operator and who, by reason of chronic illness or infirmity, are unable to care for themselves. The nursing or retirement home does not provide surgical or obstetrical services, nor shall a hospital or sanitarium be construed as a nursing or retirement home.

Office Building: A building primarily designed for office uses.

Office Use: Generally refers to a service business, rather than the production, distribution and/or retail sales of goods or commodities. The services provided are generally professional, educational, administrative, financial or governmental in nature.

Open Space: Generally a portion of the area of a site, other than required yards, which is required by this zoning code to be maintained free of impervious surfaces, although it may include features for public use such as community buildings, swimming pools, trails, tennis courts, and parking (when specifically provided for public users of the open space).

Open Space, Common: That area permanently owned in common or held for use by more than one individual property owner or resident for recreational use, landscape buffering, preservation of sensitive areas or other publicly beneficial uses. Common open space does not include the uncovered portions within any road right-of-way.

Open Space, Dedicated: That area permanently dedicated to the City and held for public use or interest as part of the City's Comprehensive Open Space System.

Open Space, Parcel: The sum of the common and private open spaces within a given development parcel.

Open Space, Private: That open space within a privately owned lot.

Permitted Use: A use authorized or permitted alone or in conjunction with another use in a specified zone and subject to the limitations and regulations of such zone.

Plat: The map or representation of a subdivision.

Public Utility: A private business organization such as a public service corporation performing some public service and subject to special governmental regulations, or a governmental agency performing similar public services, the services by either of which are paid for directly by the recipients thereof, including water supply, electrical power, gas and transportation, telephone, and other transmission services.

Qualified Professional: A person licensed in the applicable occupation, or any other person, or combination of people, with a level of education, experience and expertise in the field or discipline appropriate for the relevant subject matter as determined by the Mayor and the Town Council.

Residential Use: A type of, or an intended use, of a building or structure designed to provide a place of abode for human beings, but not including hotels or motels.

Setback: The distance that buildings must be removed from their lot lines.

Site Area: That area of land associated with a certain development application.

Site Plan: See Section 25.01.140.

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, except that the highest story is that portion of the building included between the highest floor surface and the ceiling above.

Street Frontage: The boundary of a lot separating such lot from an abutting street.

Structural Alteration: Any change in either the supporting members of a building, such as bearing walls, columns, beams, and girders, or in the dimensions or configurations of the roof or exterior walls.

Structure: A structure is that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Subdivision: The division or redivision of land into two or more lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership. (Note: For purposes of this zoning code, the term, "subdivision" includes the short subdivision of land as described in Chapter 58.17.020 RCW).

Townhouse: A building designed exclusively for occupancy by one family and containing one dwelling unit, occupying space from the ground to the roof and not lying vertically under or over adjacent units, and attached to one or more other dwelling units by common walls which may be located on lot-lines.

Triplex: A detached building containing three dwelling units.

Unclassified Use: A use possessing characteristics of such unique and special form as to make impractical its being made automatically and consistently permissible in any defined classification or zone as set forth in this zoning code.

Utility: Services such as water supply, electric power, natural gas, communication, and sanitary sewers and the provider of such services.

Utility Line: pipe, conduit, cable, and other similar means or facilities by which utility services are conveyed.

Use: The nature of the occupancy, the type of activity, or the character and form of improvements to which land is devoted or may be devoted.

Variance: An adjustment in the specific regulation of this title regarding a particular piece of property as provided in 25.01.140

Washington State Wetland Rating System: The four-tier rating system developed by the State Department of Ecology and included in its "Model Wetlands Protection Ordinance" of 1990.

Wetland or Wetlands: Areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway, wetlands may include those artificial wetlands intentionally created from non wetland areas created to mitigate conversion of wetlands.

Yard: Any front, rear or side yard.

Yard, Front: A yard extending the full width of the front of a lot between the front street line and the front building line.

Yard, Rear: The yard extending the full width of the lot in the area between the rear lot line and the rear building line.

Yard, Side: A yard extending the full length of the lot in the area between a side lot line and a side building line.

#### **25.01.030 PURPOSE AND ESTABLISHMENT OF ZONES.**

A. Purpose of Use Classifications (Zones).

Use classifications are adopted to enhance the lifestyle of citizens of Ruston and the region by:

- regulating the locations of land uses;
- insuring that different land uses are compatible and mutually beneficial;
- making possible efficient and economical public services, including streets, sewers, drainage systems, schools, and other public buildings;
- requiring orderly arrangements to facilitate movement of people and goods; and
- protecting natural and cultural resources.

B. List of Zones Established.

The Town of Ruston is hereby divided into three types of Use Districts as follows:

| <u>Zone</u> | <u>Use Classification</u>  |
|-------------|----------------------------|
| RES         | Residential                |
| COM         | Commercial                 |
| MPD         | Master Planned Development |

#### **25.01.040 RESIDENTIAL (RES) ZONE.**

A. Purpose.

The Residential (RES) zone serves to preserve and enhance the character of the original Ruston residential neighborhood. Redevelopment of existing homes is encouraged, as well as new housing compatible in scale and design. Any permanent habitable structure permitted after the date of adoption of this code must meet Uniform Building Code standards in effect at the time that the building permit is issued.

B. Permitted Uses.

These uses are permitted outright in the RES zone:

1. Single Family dwellings and garages.
2. Home Occupations.
3. Conditional Uses.
3. Auxiliary Dwelling Units and Accessory Living Quarters subject to the requirements of 25.01.040 J.

C. Conditional Uses.

The following uses are permitted when authorized as a conditional use under Section 25.01.110:

1. Public and private schools, including accessory buildings located on the same site.
2. Day Care, nursery, and kindergarten centers.
3. Churches if:
  - a. The building(s) does not cover more than 20 percent of the lot; and
  - b. No buildings, active play area or parking lot is closer than 20 feet to any residential lot.
4. Government facilities (fire station, library, etc.) primarily serving nearby residences.
5. ~~Country club, golf course, tennis club, swimming club, archery club, or other similar athletic club.~~
6. Double and Multiple family dwellings, apartments, hotels and offices, not exceeding 25 feet in height.
7. Transportation and utility facilities including: rail right-of-way; park and ride facilities; communication facilities not requiring on site, full-time employees; water distribution and storage facilities; electric substations necessary to serve the surrounding community; sewage collection and pumping facilities; and natural gas distributions.
8. Manufactured homes, mobile homes.

D. Minimum Lot Area and Width.

Every building erected or structurally altered in the RES zone shall provide a lot area of at least 4800 square feet with a minimum width of fifty (50) feet for single family dwellings.

E. Setback Requirements.

- I. Lots developed after enactment of this Code shall maintain at least these setbacks:
  - a. Front yard - 20 feet to property line.
  - b. Rear yard - 25 feet.
  - c. Side yards - 7 1/2 feet.

F. Permitted Height.

No structure shall exceed 25 feet in height. No detached garages shall exceed ~~45~~ 18 feet in height.

G. Lot Coverage.

The house and garage shall not cover more than 35% of a lot.

H. Site Plan Requirements.

Site Plan approval is required under Section 25.01.140 of more than 4 residential units.

I. Yard Variation on Corner Properties.

The Town Council may issue special permits allowing variations of positions of side, front and rear entrances of houses to be built on corner properties formed by the intersection of two or more streets. Such permits may result in

substitution of front and/or rear yard depths for side yard depths and vice-versa, but shall not otherwise result in placing any house in a position which would be illegal. No such permit shall be granted if the resulting set-back does not harmonize with other residential buildings in the same block. Every application for a special permit under this subsection shall be accompanied by complete plans showing all entrances to the house, and a sketch map showing accurately the location of the house on the property and locations of other residential buildings in the same block.

#### J. Accessory Living Quarters and Auxiliary Dwelling Units - Special Permit

Ruston homeowners must apply to legalize existing auxiliary dwelling units and accessory living quarters (mother-in-law units) in single family homes between September 1, 1997 and March 1, 1998 unless they have received a variance or other special permit to allow such use prior to the effective date of this Code. Ruston homeowners may apply to establish new auxiliary dwelling units and accessory living quarters in single family homes at any time following the date of adoption of this ordinance.

Existing and new auxiliary dwelling units and accessory living quarters may be allowed in the residential zone following review and approval by the Planning Commission and Town Council if the home is owner occupied and the unit is found to conform with the requirements of this ordinance as established by an inspection by the Town Building Inspector. Such inspection shall be made by the Town upon application to the Town Clerk and payment of a \$50 fee. If the report of the Town Building Inspector finds that the unit meets the requirements of this ordinance, a special use permit will be issued by the Town Clerk following review and approval by the Planning Commission and Town Council. The auxiliary dwelling and accessory living quarter shall be considered a legal use only as long as the home is owner occupied. ~~The permit shall be renewed every two years upon application to the Town Clerk and certification that the property is owner occupied.~~

Conditions which must be met to allow existing and new auxiliary dwelling units and accessory living quarters:

1. A single family dwelling or lot may have no more than one auxiliary dwelling unit or accessory living quarter.
2. The home principal structure must be occupied by one or more owners of the property or a family member as a permanent and principal residence; the owner may live in either the main or principal structure, auxiliary dwelling unit, or accessory living quarter.
3. The home principal structure must provide at least three off-street parking spaces which meet the requirements of section 25.01.090 of the Ruston Municipal Code.
4. The minimum ceiling height must be 6 feet, 8 inches for auxiliary dwelling units and accessory living quarters located within structures constructed before October 17, 1979, and 7 feet 6 inches for units within structures constructed after that date. Projections below the ceiling, including but not limited to beams, pipes and ducts, shall not reduce the headroom to less than 6 feet 6 inches.
5. In sleeping rooms located in buildings constructed after August 10, 1972, or in rooms lawfully converted or established for sleeping purposes after August 10, 1972, there shall be at least one operable window or exterior door approved for emergency escape or rescue. The window or door must be operable from the inside. All emergency escape windows shall have a minimum net clear opening of 5.7 square feet, a minimum net clear openable height dimension of 24 inches, a minimum net clear openable width dimension of 20 inches. The window must have a finished sill height not more than 44 inches above the floor. The sill height may be measured from the top of a constructed step with a riser of not more than seven inches.
6. The auxiliary dwelling unit and accessory living quarter must provide adequate light and ventilation, sanitation, structural characteristics, heating, electrical service, fire safety and security in accordance with the Uniform Building Code.

Parking Requirement Waiver. A waiver from the parking requirement may be granted by the Town Council if topography of the site or structure location makes it unduly burdensome to provide the required parking and there is adequate on street parking. A plot plan must be submitted which illustrates what factors make it impractical to provide the required parking such as topography, walls or existing structures. The existence of adequate on street parking must also be shown by a written survey report which includes the date and time of survey, map of the survey area, total number of legal parking spaces and number of parking spaces occupied.

Design Requirements. The design of an auxiliary dwelling unit or accessory living quarter shall be incorporated into the principal structure's design with matching materials, colors, window styles, and roof design or it shall be designed so that, to the degree reasonable feasible, the appearance of the building remains that of a single family dwelling.

Conditional Use Permit. If a home is not owner occupied, one auxiliary unit may be allowed under a conditional use permit in accordance with section 25.01.110 of the Ruston Municipal Code.

Enforcement: If a unit cannot be legalized because it fails to meet the standards herein and the unit cannot or will not be brought into conformance with these standards, the use will have to be discontinued. The Town may cite owners of illegally occupied units who do not apply for legalization. Owners who do not apply for a permit will be subject to civil penalties and other enforcement penalties under section 25.01.140 H. of the Ruston Municipal Code.

#### K. Existing Multiple Family Dwelling Units - Special Permit.

Ruston multiple family dwelling unit owners must apply to legalize existing multiple family dwelling units between December 1, 1996 and June 1, 1997 unless they have received a variance or other special permit to allow such use.

Existing multiple family structures dwelling units will be permitted in the residential zone if the structure is found to conform with the requirements of this section as established by an inspection by the Town Building Inspector and review and approval by the Town Planning Commission and Town Council. Such inspection shall be made by the Town upon application to the Town Clerk and payment of a \$50 fee. If the report of the Town Building inspector finds that the structure meets the requirements of this ordinance, and approval is received from the Town Planning Commission and Town Council, a special use permit will be issued by the Town Clerk and the structure shall be considered a legal non conforming use.

#### Conditions which must be met to permit an existing multifamily structure :

1. The structure must provide at least two off-street parking spaces for each unit which meet the requirements of section 25.01.090 of the Ruston Municipal Code.
2. The minimum ceiling height must be 6 feet, 8 inches for each unit located within structures constructed before October 17, 1979, and 7 feet 6 inches for units within structures constructed after that date. Projections below the ceiling, including but not limited to beams, pipes and ducts, shall not reduce the headroom to less than 6 feet 6 inches.
3. In sleeping rooms located in buildings constructed after August 10, 1972, or in rooms lawfully converted or established for sleeping purposes after August 10, 1972, there shall be at least one operable window or exterior door approved for emergency escape or rescue. The window or door must be operable from the inside. All emergency escape windows shall have a minimum net clear opening of 5.7 square feet, a minimum net clear openable height dimension of 24 inches, a minimum net clear openable width dimension of 20 inches. The window must have a finished sill height not more than 44 inches above the floor. The sill height may be measured from the top of a constructed step with a riser of not more than seven inches.
4. Each unit must provide adequate light and ventilation, sanitation, structural characteristics, heating, electrical service, fire safety and security in accordance with the most current Uniform Building Codes.

Parking Requirement Waiver A waiver from the parking requirement may be granted by the Town Council if topography of the site or structure location makes it unduly burdensome to provide the required parking and there is adequate on street parking. A plot plan must be submitted which illustrates what factors make it impractical to provide the required parking such as topography, walls or existing structures. The existence of adequate on street parking must also be shown by a written survey report which includes the date and time of survey, map of the survey area, total number of legal parking spaces and number of parking spaces occupied.

Enforcement: If a unit or structure cannot be legalized because it fails to meet the standards herein and the unit cannot or will not be brought into conformance with these standards, the use will have to be discontinued. The Town may cite owners of illegally occupied units who do not apply for legalization. Owners who do not apply for a permit will be subject to civil penalties and other enforcement penalties under section 25.01.140 H. of the Ruston Municipal Code.

#### M. Accessory Structures in Rear Yards.

Accessory buildings or living quarters, including garages, may be built within a rear yard, within 3 feet of the rear lot line provided the required total open space area for the lot is not exceeded. In addition, accessory buildings shall cover no more than 50% of the rear yard; computed on the full width of the lot times the depth of the rear yard. Accessory buildings shall not be closer than 7 and 1/2 feet to a side lot line.

If a garage is proposed in the rear yard and access is planned from an alley such access must conform to the Alley Access Requirements in section 25.01.090.

#### N. Fences

Fences of up to 6 feet high may occupy a side or rear yard. Fences of up to 42 inches high may occupy a front yard. Fences may be no more than 42" high when located closer to the front lot line than the required front yard setback.

#### N. Fences - Height Restrictions. a. Residential zones.

1. Front yard: forty-two inches maximum height. On corner lots, fences shall be limited to thirty six inches in height for a distance of fifteen feet from the intersection of the property lines abutting the street, and to forty two inches in height for the remainder of the front yards facing on both streets; except that fences may be permitted to a maximum height of seventy two inches from the ground in the front and/or side yard on a flanking street.

2. Side yards: seventy two inches.

3. Rear yards: seventy two inches.

#### b. Commercial and/or industrial zones.

1. Front yard: forty-two inches maximum height. On corner lots, fences shall be limited to thirty six inches in height for a distance of fifteen feet from the intersection of the property lines abutting the street, and to forty two inches in height for the remainder of the front yards facing on both streets; except that fences may be permitted to a maximum height of seventy two inches from the ground in the front and/or side yard on a flanking street. There is no maximum fence height limitation on fences located on the side or rear property lines.

c. Diagram illustrates subsections A and B of this section.

O. Projections into yard setbacks.

See section 25.01.110 D.3. for allowable projections into yard setbacks.

**25.01.050 COMMERCIAL (COM) ZONE.**

A. Purpose.

The commercial zone (COM) is intended to provide for the location of businesses serving shoppers and patrons on a local and regional basis.

B. Permitted Uses.

Any use permitted outright in the RES zone is permitted. All commercial uses which meet the following applicable standards are permitted including, but not limited to retail stores and shops as are usually needed to serve a residential district such as

1. Retail;
2. Business, professional, and governmental offices;
3. Hospitals, clinics, nursing and convalescent homes;
4. Hotels and motels;
5. Entertainment and indoor recreational uses such as bowling alleys, fraternal or community clubs, indoor ice skating rinks, sports arenas, auditoriums and theaters, but specifically excluding adult theaters, topless entertainment, adult bookstores and sexually oriented novelty shops;
6. Service businesses or stores such as funeral homes, printing, automobile service stations, automobile and truck rental, vehicle or boat sales or repair;
7. Nurseries and greenhouses; and
8. Commercial uses involving production of goods primarily for sale on site, provided such processing or goods stored or processed shall be limited to those which do not emit odor, dust, smoke, radiation, gas, fumes, noise, vibrations, refuse or waste which would unreasonably affect adjacent property.
9. Schools, libraries, and other governmental or public institutions.

C. Conditional Uses.

The following uses shall be permitted when authorized pursuant to Section 25.01.110, Conditional Uses, Unclassified Uses and Variances:

1. Light manufacturing, including cabinet shops and similar enterprises.
2. Transportation and utility facilities including: bus terminals; taxi headquarters; maintenance garages; principal use parking facilities; park and ride facilities; radio and television stations; telephone exchanges; cable television facilities; other communication facilities; water distribution and storage facilities; electric substations; sewage collection, pumping and treatment facilities; and natural gas distributions.
3. Public and private schools, including accessory buildings located on the same site.

4. Day Care, nursery, and kindergarten centers.

5. Churches if:

a. The building(s) does not cover more than 20 percent of the lot; and

b. No buildings, active play area or parking lot is closer than 20 feet to any residential lot.

6. Government facilities (fire station, library, etc.) primarily serving nearby residences.

7. Country club, golf course, tennis club, swimming club, archery club, or other similar athletic club.

8. Double and Multiple family dwellings, apartments, hotels and offices, not exceeding 25 feet in height.

9. Transportation and utility facilities including: rail right-of-way; park and ride facilities; communication facilities not requiring on site, full-time employees; water distribution and storage facilities; electric substations necessary to serve the surrounding community; sewage collection and pumping facilities; and natural gas distributions.

10. Manufactured homes, mobile homes.

D. Minimum Lot Area.

There is no minimum lot area in the COM zone.

E. Permitted Height.

1. Adjacent to residential districts: Whenever any Commercial Use District is located within or is adjacent to, any Ruston residential district, the building in such Commercial Use District, shall be limited to 25 feet in height, provided however, that the Council may allow a building to be erected to an additional height not exceeding 15 additional feet, by variance permit after public hearing and examination of the location upon due proof to the satisfaction of the Town Council that such additional height will not be unduly detrimental to adjacent and surrounding property.

2. Not adjacent to residential districts: No building shall exceed a height limit of 35 feet or three stories.

F. Setback and Buffer Requirements.

Front Yard, Side Yard, Rear Yard: No yards are required except for commercial lots that are adjacent to a residential district or are separated from a residential district by an alley.

1. Yard setback requirements when a commercial lot is adjacent to a residential district:

- a. Front yard - 20 feet to property line.
- b. Rear yard - 25 feet to property line.
- c. Side yards - 7 1/2 feet to property line.

2. If a commercial lot is adjacent to a residential lot on a street flanking the front of the commercial use, the setback requirements are as follows (See Figure 1 for an example).

- a. Front yard - none.
- b. Rear yard - 10 feet to property line.
- c. Side yard - conforming to residences in the rear, but not less than ten (10) feet to the property line.

3. If a commercial property is only separated from a residential district by an alley, all structures must be setback 25 feet from the property line that is adjacent to the alley.

G. Off Street Parking Requirements.

Off street parking shall comply with Section 25.01.090.

H. Site Plan Requirements.

Site Plan approval is required under Section 25.01.140 for any development of:

1. Over 50,000 square feet of gross floor area.
2. Hotels, motels, nursing homes and convalescent homes of more than 50 rooms or beds.
3. Bars, taverns and restaurants adjacent to residential zones.

**Figure 1**  
**Example**

**Setback Requirements for Commercial Buildings with  
Adjacent Residential Uses on Flanking Streets  
(Subject to exceptions in 25.01.050)**

## 25.01.060 MASTER PLANNED DEVELOPMENT (MPD) ZONE.

### A. Purpose.

This is a zoning district that may be developed only in accordance with a specific development plan. The approved development plan is an integral part of this zoning district and all development shall comply with said plan. The master planned development zone is designed and intended to enable and encourage the development of large tracts of land which are under unified ownership or control, or lands which by reason of existing or planned land uses are appropriate for development under this section, so as to achieve land development patterns which will maintain and enhance the physical, social and economic values of an area and the Town of Ruston.

To this end, there may be provided within such areas a combination of land uses, including a variety of residential types, commercial, industrial, public and semi-public areas, arranged and designed in accordance with modern land planning principles and development techniques; and in such a manner as to be properly related to each other, the surrounding community, the shoreline, the planned thoroughfare system, and other public facilities such as water and sewer systems, parks, schools and utilities.

The Master Planned Development zone and procedure are further established to provide a land developer with reasonable assurance that specific uses proposed from time to time, if in accordance with an approved development plan, will be acceptable to the Town; and to provide the Town Planning Commission and the Town Council with a long-term proposal for the development of a given area.

### B. General Provisions.

1. Qualifications: MPD districts may be established on parcels of land which, because of their unified ownership or control, size, topography proximity to large public facilities, or exceptional or unusual locational advantages, are suitable for planned development in a manner consistent with the purposes of this section.

2. Permitted Uses: All uses would be permitted in substantial harmony with the Comprehensive Plan subject to approval of a Development Plan by the Town Council.

3. Property development standards: All land uses in a MPD district shall conform to the property development standards set forth in the Development Plan approved by the Town Council.

4. Approvals required: No structure or building shall be built or remodeled upon land in the MPD district until Town Council approval has been obtain as outlined herein.

### D. Additional Material.

Additional M material and information shall be provided for specific types of uses as follows:

a(1). Wherever residential development is proposed within a MPD district, the development plan shall contain at least the following information:

a(1). The approximate number of dwelling units proposed by type of dwelling and the density, i.e., the number of dwelling units proposed per gross acre for each type of use.

b(2). The standards of height, open space, building coverage, yard area, landscaping and pedestrian facilities, parking facilities and the kinds of street and land improvements proposed.

2b. For MPD districts or sections thereof for which commercial development is proposed, the development plan shall contain at least the following information:

a(1). The approximate retail sales floor area and total area proposed for commercial development.

**b(2).** The types of uses proposed to be included in the development.

**e(3).** The standards of height, open space, buffering, landscaping, pedestrian and vehicular circulation, off-street parking and loading signs, and nuisance controls intended for the development.

**3c.** For MPD districts or sections thereof for which light industrial development is proposed, the development plan shall contain at least the following information:

**a(1).** The approximate total area proposed for such use.

**b(2).** The types of uses proposed to be included in the development. (Generally those light industrial, office, laboratory and manufacturing uses shall be allowed which do not create any danger to health and safety in surrounding areas and which do not create any ~~offensive excessive~~ noise, vibration, smoke, dust, odor, heat or glare and which by reason of high value in relation to size and weight of merchandise received and shipped, do not generate significant levels of truck traffic whose impacts cannot be mitigated.)

**e(3).** The anticipated employment in the entire development and in each major section thereof. This may be stated as a range.

**d(4).** The standards of height, open space, buffering, landscaping, pedestrian and vehicular circulation, off-street parking and loading, signs, and nuisance controls intended for the development.

**4d.** For MPD districts or units thereof containing institutional, recreational or other public or quasi-public development, the development plan shall contain the following information:

**a(1).** General types of uses proposed in the entire development and each major section thereof.

**b(2).** Significant applicable information with respect to enrollment, residence employment, attendance, or other social or economic characteristics of development

**e(3).** The standards of height, open space, buffering, landscaping, pedestrian and vehicular circulation, off-street parking and loading, and signs intended for the development.

## 5. Optional Materials.

a. Economic analysis of a specific development proposal.

b. Other materials necessary to fully evaluate the proposal.

## C. Development Plan.

The application shall be accompanied by a development plan which shall consist of:

1. A map or maps drawn to a suitable scale, showing at least the following:

- a. The boundary of the proposed MPD and it's immediate vicinity and the Town.
- b. The topographic character of the land.
- c. Views to Puget Sound and Mount Rainier from the development site as well as the surrounding areas.
- ed. Drainage accommodations.
- de. Accommodations for all utilities.
- ef. Any major regrading intended.

- fg. The proposed uses of the land.
- gh. The approximate location of all public streets, rights-of-way and sidewalks and other pedestrian and bike facilities..
- hi. Location of public uses proposed, if any, such as schools, parks, playgrounds, trails or other recreational facilities.
- ij. The locations of any critical areas.
- k. Relationship to Puget Sound shoreline and related facilities.

2. A development program including but not limited to:

- a. A legal description of the MPD boundary.
- b. Size of the area.
- c. The overall density and type of structures proposed.
- d. The nature of development proposed.
- e. The disposition of lands proposed for public facilities.
- f. The anticipated timing for each unit of the district proposed to be developed separately.
- g. The delineation of development units which shall be integral units planned for development at different stages phases.
- h. Development standards for each of the proposed uses.
- hi. The approximate size, in acres, of each development unit.
- ij. A description of the status and progress of any environmental remediation activities of the MPD site.
- jk. Proposed mitigation measures to address impacts of the MPD.

3. All proposed restrictive covenants.

4. An approved development plan shall be kept on file by the Town, and if no construction has begun within eighteen (18) months of the approval of said plan, or within the time frame established within the approved plan, the plan shall lapse and be of no further effect. The Town Council may extend the period for the beginning of construction prior to the expiration date, if requested by the applicant.

When appropriate, said plan shall include recommendations explanations as to how MPD uses will be compatible with the areas surrounding said development. Describe how the MPD uses will be compatible with the areas surrounding the proposed development, the Town's Comprehensive Plan and related zoning, subdivision and shoreline regulations.

Within the MPD district development units may be established of any size whatever but shall be logical in size and shape and shall function by themselves and in relationship to other development units within the district or adjacent property.

**D. Additional Material.**

Additional material and information shall be provided for specific types of uses as follows:

- 1. Wherever residential development is proposed within a MPD district, the development plan shall contain at least the following information:
  - a. The approximate number of dwelling units proposed by type of dwelling and the density, i.e., the number of dwelling units proposed per gross acre for each type of use.
  - b. The standards of height, open space, building coverage, yard area, parking facilities and the kinds of street and land improvements proposed.
- 2. For MPD districts or sections thereof for which commercial development is proposed, the development plan shall contain at least the following information:

- \_\_\_\_\_ a. The approximate retail sales floor area and total area proposed for commercial development.
- \_\_\_\_\_ b. The types of uses proposed to be included in the development.
- \_\_\_\_\_ c. The standards of height, open space, buffering, landscaping, pedestrian and vehicular circulation, off street parking and loading, signs, and nuisance controls intended for the development.
- \_\_\_\_\_ 3. For MPD districts or sections thereof for which light industrial development is proposed, the development plan shall contain at least the following information:
  - \_\_\_\_\_ a. The approximate total area proposed for such use.
  - \_\_\_\_\_ b. The types of uses proposed to be included in the development. (Generally those light industrial, office, laboratory and manufacturing uses shall be allowed which do not create any danger to health and safety in surrounding areas and which do not create any offensive excessive noise, vibration, smoke, dust, odor, heat or glare and which by reason of high value in relation to size and weight of merchandise received and shipped, do not generate significant levels of truck traffic whose impacts cannot be mitigated.)
  - \_\_\_\_\_ c. The anticipated employment in the entire development and in each major section thereof. This may be stated as a range.
  - \_\_\_\_\_ d. The standards of height, open space, buffering, landscaping, pedestrian and vehicular circulation, off street parking and loading, signs, and nuisance controls intended for the development.
- \_\_\_\_\_ 4. For MPD districts or units thereof containing institutional, recreational or other public or quasi-public development, the development plan shall contain the following information:
  - \_\_\_\_\_ a. General types of uses proposed in the entire development and each major section thereof.
  - \_\_\_\_\_ b. Significant applicable information with respect to enrollment, residence, employment, attendance, or other social or economic characteristics of development.
  - \_\_\_\_\_ c. The standards of height, open space, buffering, landscaping, pedestrian and vehicular circulation, off street parking and loading, and signs intended for the development.

D. Findings Required.

Findings are required before approval or denial of an application for a proposed MPD district. Before approval or modified approval of an application for a proposed MPD district, the Planning Commission and the Town Council must find:

1. That the development proposed is in substantial harmony with the comprehensive plan of the Town of Ruston, and can be coordinated with existing and planned development of surrounding areas, and will produce a living and working environment and landscape quality to benefit the Town and the public.
2. That the streets and thoroughfares proposed are suitable and adequate to serve the proposed uses and the anticipated traffic which will be generated thereby.
3. That the MPD has been reviewed under the State Environmental Policy Act, according to the procedures specified therein.

4. The planning commission and Town Council shall further find that the facts submitted with the application and presented at the hearing establish that:

- a. In the case of proposed residential development, that such development will constitute a residential environment of sustained desirability and stability; that it will be in harmony with the character of the surrounding area; and that the sites proposed for public facilities, such as playgrounds and parks, are adequate to serve the anticipated population.
- b. In the case of proposed light industrial or research uses, that such development will be appropriate in area, location and overall planning to the purpose intended; and that the design and development standards are such as to create an environment of sustained desirability and stability.
- c. In the case of proposed commercial, institutional, recreational and other non-residential uses, that such development will be appropriate in area, location and overall planning to the purpose intended; and that such development will be in harmony with the character of the surrounding areas.

E. An approved development plan shall be kept on file by the Town, and if no construction has begun within eighteen (18) months of the approval of said plan, or within the time frame established within the approved plan, the plan shall lapse and be of no further effect. The Town Council may extend the period for the beginning of construction prior to the expiration date, if requested by the applicant.

## **25.01.070 NATURAL SYSTEMS.**

### **A. Purpose.**

It is the purpose of this section to promote the public health, safety and general welfare by:

1. confirming the public's interest in the conservation and wise use of our lands;
2. assuring the long-term conservation of resource lands;
3. designating and classifying critical areas and resource lands;
4. protecting environmentally critical areas; and
5. complying with and furthering the purposes of the State of Washington Growth Management Act.

### **B. Designation of Resource Lands.**

Any lands lying within the incorporated area and urban growth area of the Town of Ruston which have those characteristics set forth in the definition of mineral lands are hereby designated as mineral resource lands. No agricultural or forest lands are designated by the Town.

### **C. Designation of Critical Areas.**

Where applicable, the incorporated area of the Town of Ruston is designated into the following critical areas:

1. Wetlands
2. Critical Aquifer Recharge Areas
3. Frequently Flooded Areas
4. Geologically Hazardous Areas

## 5. Fish and Wildlife Habitat Conservation Areas

### D. Maps.

Resource lands and critical areas are designated on a series of Resource Lands and Critical Areas Maps to be maintained at the Ruston Town Hall. These maps contain the best available graphic depiction of resource lands and critical areas and are to be updated as more reliable information becomes available.

### E. Interpretation of Maps.

The Mayor is the official charged to interpret the maps. The maps are to be used as a general guide to the location and extent of resource lands and critical areas. The maps are for informational and illustrative purposes only and are not regulatory in nature. The maps are intended to alert the community of a potential of such resource lands or critical areas being located in the vicinity of a site.

### F. Effect of Maps.

The presence of a designation on the maps is sufficient foundation for the Town to require an analysis of the designation. The lack of such designations upon the maps shall not be deemed to preclude requiring such an analysis if in the judgment of the Mayor there is a reasonable possibility of resource lands or critical areas being located in the vicinity of a proposed development.

The conclusion by the Mayor that a parcel of land or a part of a parcel of land that is subject of a proposed development application includes or is within 50 feet of one or more critical areas or resource lands shall serve as cause for additional investigation and analysis to be conducted by the applicant. Resource lands and critical areas indicated on the data maps are presumed to exist in the locations shown and are protected under all the provisions of this ordinance.

The exact location of resource lands and critical areas shall be indicated by the applicant as a result of field investigations performed by qualified professionals. All development applications must include the location of all resource lands and critical areas within a minimum of 300 feet on a scaled drawing at a detailed scale of at least 1-inch equals 400 feet. In the event of multiple designations, each will be addressed independently and collectively for the purpose of determining development limitations and appropriate mitigating measures.

### G. Application of Analysis and Development Standards.

The site analysis requirements and development standards shall apply to any development which pursuant to the previous section is found to lie within 50 feet of a designated natural resource land or critical area. Consistent with the intent of this ordinance, the Mayor is authorized to determine the appropriate scope and detail of any required site analysis.

### H. Forest Lands.

Section reserved: no such lands are designated within the current Town of Ruston

### I. Mineral Resource Lands.

Whenever designated mineral resource land is located within 50 feet of any proposed development, notice of such condition shall be provided to subsequent owners of the development site by means of notices upon plats of record and inclusion for notice in all real estate purchase and sale agreements, contracts of sale, and real estate deeds.

### J. Wetlands.

1. Site analysis is required for the purpose of determining whether the site is within 50 feet of a wetland as defined herein and, if a wetland is found, specifying the category and establishing a wetland boundary using the criteria found in the 1987 edition of the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands." Field delineation of the boundary is required and a scaled map shall be submitted. The Washington State Wetlands Rating System shall be applied to the wetland area to establish the category of each wetland. The analysis, delineation and categorization required by this subsection shall be done by a qualified professional.

2. **Outright Permitted Uses.**

Development impacting wetlands of less than 5,000 square feet shall not require a permit under this regulation nor be subject to any of the development standards of this section. Other state or federal regulations may apply.

3. **Wetland Protection Standards.**

a. A buffer shall be required adjacent to, and outside of all wetlands as follows:

|                        |         |
|------------------------|---------|
| Category I Wetlands:   | 50 feet |
| Category II Wetlands:  | 40 feet |
| Category III Wetlands: | 30 feet |
| Category IV Wetlands:  | 25 feet |

b. The above buffer depths may be reduced by up to 50 percent if in the judgment of the Mayor the site analysis demonstrates that the land adjacent to the buffer is and will remain extensively vegetated, or is topographically and ecologically remote from the wetland, and that no direct or indirect adverse impact on the wetland is reasonably probable as a result of the buffer reduction.

c. Among other factors, the Mayor may consider the size, category and sensitivity of the particular wetland, the scope and type of development proposal, the analysis and recommendation of any qualified professional, and reliability of the particular delineation, categorization and applicable protection and mitigation measures proposed.

d. Wetland buffers shall be retained in their current condition or be used as set forth below. Alteration of the buffer may be required to mitigate possible adverse impact or to protect the wetland. Where buffer disturbance is unavoidable during adjacent construction, revegetation will be required. Native plant materials shall be utilized as appropriate in the judgment of the Mayor.

e. The following types of uses and activities are allowed to occur on wetlands and wetland buffer zones: outdoor recreational activities, and maintenance of existing facilities, structures, ditches, roads, and utility systems.

f. Regulated activities include: removal excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind; dumping, discharging, or filling with any material; draining, flooding or disturbing the water level or water table; driving pilings; placing obstructions; construction, reconstruction, demolition, or expansion of any structure; destruction or alteration of wetland vegetation through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a regulated wetland; and activities that result in a significant change of water temperature, a significant change of physical or chemical characteristics of wetlands water sources, or the introduction of pollutants.

g. As a condition of any permit allowing alteration of wetlands and/or wetland buffers, the Town Council may require that the applicant engage in the restoration, creation or enhancement of wetlands and their buffers in order to offset the impacts resulting from the applicant's actions. The applicant shall develop a plan that provides for land acquisition, construction, maintenance and

monitoring of replacement wetlands that recreate as nearly as possible the original wetlands in terms of acreage, function, geographic location and setting, and that are the same size or larger than the original wetlands. In addition, applicant shall demonstrate sufficient scientific expertise, supervisory capability, monitoring capability, and financial resources to carry out the project.

h. Provided further that buffers may be utilized for new roads and utility lines which traverse at right-angles any linear wetlands having a width not greater than 25 feet. In such cases, such roads and utility lines shall be designed to minimize all adverse impacts upon wetlands and to result in no net loss of wetland area.

K. Critical Aquifer Recharge Areas.

Section Reserved.

L. Frequently Flooded Areas.

Section Reserved.

M. Geologically Hazardous Areas.

1. Steep Slopes.

a. Erosion Hazard Areas.

1. Site analysis is required to determine the exact location of any erosion hazard area and circumstances that might be expected to precipitate a significant erosion event. The type and effectiveness of mitigating measures available to safeguard the public safety and welfare shall be addressed. The analysis shall also discuss the proposed development's influence on the erosion hazard and suggest appropriate design and development measures that might be taken to minimize such hazards.

2. Development Standards: Erosion hazard areas shall be avoided for development where mitigation is not feasible. Erodible surfaces shall be stabilized by best management practices. Release of storm water to such areas shall be strictly limited to predevelopment flow rates, and patterns.

b. Landslide Hazard Areas.

1. A site analysis is required to identify and quantify geologic, topographic and hydrologic factors that might contribute to slope instability. The rate and extent of potential hazards must be assessed and mitigation measures, if any, evaluated. The proposed development must be analyzed with consideration of landslide risk to proposed public and private investments. The analysis shall account for the effects of storm water generation from impervious surfaces and the influence of street on slope stability.

2. Development Standards: Documented landslide hazard areas shall be avoided as locations for building construction, roads, or utility systems where mitigation is not feasible. Limiting the degree of hazard permits development, post construction slope stabilization and appropriate road construction standards shall be employed to eliminate as completely as practicable any public or private exposure to landslide hazards or extraordinary maintenance or repair costs.

2. Mine Hazard Areas.

Section reserved: No such lands designated within the Town.

3. Seismic Hazard Areas.

- a. Site Analysis: Ruston is designated as lying within a seismic hazard area. The applicant may provide information with respect to this designation.
- b. Development Standards: All structures and improvements shall be designed and constructed in accordance with Earthquake Design Standards of the Uniform Building Code as adopted by the Town or other applicable standards.

N. Fish and Wildlife Habitat.

1. A site analysis by a qualified professional, at the discretion of the Mayor ~~and at the Town's expense~~, may be required if there are concerns regarding wildlife habitat in the area. The site analysis will identify habitat conservation areas, including priority habitats and species, habitats and species of local importance, the nature and extent of such species' primary association with the habitat and seasonal range dynamic, and movement corridors. The analysis shall address the relative tolerance of human activities on the species. The development proposal shall be evaluated in terms of its influence on the habitat. Species regional occurrence and movements shall be considered. Appropriate mitigating measures shall be recommended by the qualified professional. Areas identified as urban open space on official maps will not be required to perform a site analysis.

2. Development Standards: Adverse effects shall be mitigated to ensure continuation of base-line populations for all priority species and any other species of local importance. Base-line populations are those population levels known or reasonably believed to have been supported by the area in question with relative stability over the decade preceding the proposed development. Creation of isolated sub-populations of those species shall be avoided.

O. Exemptions.

1. Non-Conforming Developments: Within the natural resource lands and critical areas established by this ordinance there exist land uses, developments, and lots of record which were lawfully established or approved, but which would be prohibited, regulated or restricted under the terms of this section. It is the intent of the Town to permit these uses to continue. A use or structure established prior to the effective date of this ordinance which does not conform to standards set forth herein is allowed to continue and be maintained provided that such activity or structure shall not be expanded or enlarged in any manner that increases the extent of its non-conformity by creating or possibly creating an adverse impact upon the critical area or resource lands.

2. Utility Line Activities: The following activities, when undertaken pursuant to best management practices to avoid impacts to critical areas, are exempt from provisions of this ordinance.

- a. Normal and routine maintenance or repair of existing utility structures or rights-of-way.
- b. When required by a local governmental agency - relocation of electric facilities, lines, equipment, or appurtenances, not including substations with an associated voltage of 55,000 volts or less; and when required by a local governmental agency which approves the new location of the facilities - relocation of other utility lines, equipment, or appurtenances within improved rights-of-way.
- c. Installation or construction in improved public rights-of-way, and replacement, operation, or alteration of all electric facilities, lines, equipment, or appurtenances, not including substations with an associated voltage of 55,000 volts or less; and installation or construction in improved public road rights-of-way and replacement, operation, repair, or alteration of all other utility lines, equipment, or appurtenances.

P. Warning and Disclaimer of Liability.

The degree of hazard protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Catastrophic natural disasters and other destructive events can, and will, occur on occasion. This ordinance represents an attempt in good faith to provide hazard protection but does not imply that land outside critical areas, or activities permitted within such areas, will be free from risk, exposure or damage. This ordinance shall not create liability on the part of the Town of Ruston, and officers or employees thereof, for any damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

Q. Any decision made by the Mayor under Section 25.01.070 may be appealed to the Council.

**EROSION AND SEDIMENTATION CONTROL, STORM WATER RETENTION AND GROUNDWATER DISCHARGE.****A. Purpose.**

This section is to minimize adverse impacts on marine and fresh water resources that might be caused by development on unstable soils or steep slopes, or by substantial alterations in existing landforms, increases in storm water runoff, or decreases in groundwater discharge.

**B. Erosion Control Plan Required.**

An erosion control plan is required for every development involving more than:

1. 10,000 cubic yards excavation, fill or any combination thereof.
2. 8 feet depth of fill.
3. 10 feet depth of excavation.
4. One acre of grading, excavation, or fill on slopes greater than 8%.
5. Any amount of grading, excavation or fill in a stream, stream channel, water body, shoreline or seasonal wetland.

**C. Potential Problems and Purposes of Erosion Control Plans.**

Erosion control shall be designed to achieve the following objectives, to the extent practicable, to the reasonable satisfaction of the Town or be designed to meet these objectives by an engineer satisfactory to the Town.

1. Erodible slopes: prevent detachment and transport of soil particles from slope, particularly slopes over 8%.
2. Streams, streambeds, stream banks, bodies of water, lake shorelines: prevent detachment and transport of soil particles and undercutting or damage to banks.
3. Drainage ways: prevent detachment and transport of soil particles which otherwise could be deposited in streams, bodies of water, or wetlands; promote deposits or sediment loads in these areas before they change water courses.
4. Land adjacent to streams, ponds, and wetlands: prevent detachment and transport of soil particles.
5. Enclosed drainage structures: prevent sedimentation in structure, erosion at outflow, and deposit of sediment within the watercourse.
6. Large flat unpaved surfaces: prevent detachment of soil particles and their off-site transport.
7. Impervious surfaces: prevent the detachment and transport of soil from the impervious surface in increased rates or volumes of runoff.
8. Borrow and stockpile areas: divert runoff from faces of slopes which are exposed in the excavation process; convey runoff into stable channels; leave borrow areas and stockpile in stable conditions.

## **25.01.090 PARKING REQUIREMENTS.**

### **A. Parking Spaces Required.**

Every building erected after adoption of this Code shall have parking and loading spaces required by this Chapter, permanently maintained and used only for those purposes. Additions to structures require additional parking if needed to meet the required parking for the addition or the required parking for the expanded facility, whichever is smaller.

#### **1. Required Parking for specific uses:**

- a. Bowling Lanes: five parking spaces per lane
- b. Churches: one parking space for each 5 seats in the principal place of assembly. Where fixed seats consist of pews or benches, the seating capacity shall be based on 20 inches of pew or bench length per seat. If there are no fixed seats, then 1 parking space for each forty (40) square feet of floor area in the principal place of assembly.
- c. Hotels: one parking space for each bedroom.
- d. Hospitals: one parking space for each bed.
- e. Public Libraries: one parking space for each 250 square feet of gross floor area.
- f. Motels: one parking space for each sleeping unit.
- g. Offices: one parking space for each 200 square feet of gross floor area.
- h. Rest Homes, Nursing Homes, Retirement Homes, and Institutions: one parking space for each 4 beds.
- i. Elementary Schools: one parking space for each employee and each faculty member. (Where parochial schools and churches are on the same site the required church parking facilities shall be considered as contributing to the school parking requirement.)
- j. Schools: One parking space for each 10 students and one for each employee. (Where parochial schools and churches are on the same site, the required church parking facilities shall be considered as contributing to the school parking requirement.)
- k. Sports Arenas, Auditoriums, (including School Auditoriums) other places of public assembly (other than churches): one parking space for each 3 fixed seats. Where fixed seats consist of benches, or if there are no fixed seats, seating capacity shall be computed as for churches. (Where places of public assembly and schools are on the same site the required school parking facilities shall be considered as contributing to the public assembly parking requirement).
- l. Storage and Warehousing, Freight Terminals (when comprising the only activity on the premises): one parking space for each 2 employees on a maximum working shift.
- m. Theaters, Taverns, and Restaurants: one parking space for each 3 seats.

2. All commercial buildings (except as set forth in subsection 25.01.090 (A)(1)) hereafter erected or structurally altered shall be so designed as to make provision for off-street automobile parking equivalent to four parking stalls for each 1000 square feet (or major fraction thereof) of gross floor area, which is defined to include all interior building area without deduction for any reason.

3. All multiple unit dwellings hereafter erected or structurally altered shall be so designed as to make provision for off-street automobile parking equivalent to two (2) parking stalls for each residential unit therein.
4. One parking space for each 3 employees on the largest working shift for all scientific and research laboratories, light manufacturing and distribution uses.
5. Single family residential (and additions and structural alterations over 50% of the house's square footage) shall make provision for off-street parking for two automobiles.

B. Parking for Common Facilities.

The amount of off-street parking required may be reduced by an amount approved by the Town when common parking facilities are developed for two or more uses and:

1. The total parking area exceeds 5,000 sq. ft.;
2. The reduction is based on expected cooperative uses of parking facilities during times when not all uses are operating and the normal hours of operation are separated by at least one hour;
3. The number of off-street parking spaces provided for common facilities must equal the sum of the required parking spaces for each of the various uses if computed separately. The sum of required parking spaces applies for the hours during which operations of different uses overlap;
4. A covenant recorded among the cooperating property owners is approved by the Town; and,
5. Uses sharing parking must be located within 800 feet of each other.

C. Size of Parking Spaces.

Each off-street parking space shall have at least 180 square feet, exclusive of drives and aisles, and be at least 9 feet wide; except that in facilities of more than 20 parking spaces, up to 30% of the total may be at least 128 square feet, exclusive of drives and aisles, and at least 8-feet wide, if identified as compact spaces. Each space must have adequate ingress and egress.

D. Location of Parking Spaces.

1. Required off-street parking shall be located as follows, with distances measured from the nearest point of the parking facility to the nearest door of the building served:
  - a. For residential dwellings, parking shall be on the lot or site served.
  - b. For churches in the RES zones, parking shall be on site. For churches located in other zones, parking shall be no farther than 150 feet and not in a RES zone.
  - c. For hospitals, homes for the aged, boarding houses and club facilities, parking shall be no farther than 150 feet from the building and not in a RES zone.
  - d. The off-street parking herein provided shall be on the same premises as the commercial or multiple-unit dwelling to which it is appurtenant (except as provided below in subsection 25.01.090(D)(3)).
2. No motor vehicles or trailers may be parked or stored in any required front yard except in driveways. Driveways may cross required yards or landscaped areas to provide access between the off-street parking

facility and the street. Driveways serving single-family dwellings may be used for parking and may be considered to provide one of the two required parking spaces.

3. Whenever required parking is located off-site, safe, durable and adequate pedestrian facilities shall be provided to the building served. Off-site parking must be located within 800 feet of the building served.

4. Alley Access: Garages and parking spaces may be located adjacent to ~~on~~ alleys only if ~~adequate room for vehicle maneuvering is available. The following standards must be~~ are met before alley access to parking spaces from alleys will be allowed:

- a. For alley access to parking spaces ~~facilities~~ to be allowed, the alley to be used must have a right of way width of at least 16 feet.
- b. The alley must have, or be provided with an improved, unobstructed, ~~gravel or paved~~ surface at least twelve feet in width within the public right of way which extends to the nearest street.
- c. For parking spaces and garages proposed at right angles to the alley, at least 22 feet must be available from the back edge of the required parking space or wall of proposed garage structure to any obstruction which will inhibit maneuvering or to the far edge of the alley right of way, whichever is nearest.
- d. For parking spaces and garages parallel to the alley right of way, the entire parking space must be located on the applicant's property and all space for maneuvering must occur on the applicant's property or on public right of way.

#### **25.01.100 SIGNING AND LIGHTING.**

##### **A. Signs - Definitions.**

For the purpose of this Chapter:

1. "Commercial Sign" means an exterior sign or device advertising to or attracting attention of prospective patrons, customers, users, including all signs not within the definitions below.

2. "Non-Commercial Sign" means any exterior nameplate identifying a residence, church, non-profit institution, public or recreational facility, apartment building or subdivision.

3. "Public Sign" means a sign of interest and benefit to the general public, such as directional signs designating routes or location, traffic control signs, signs advertising public events such as Fourth of July celebrations, and Christmas decorations.

4. "Political Sign" means a sign advertising a candidate, a list of candidates or an issue appearing on the ballot at the next scheduled election.

5. "Real Estate Sign" means a temporary sign of the type customarily used to advertise real estate for sale or lease.

##### **B. Signs Permitted Within Particular Zones.**

The following signs are permitted:

1. RES zones: Non-commercial signs, public and political signs up to 8 square feet in size. One commercial sign is permitted per residence but may not exceed 8 square feet in area.

2. RES zone: Real Estate signs up to 6 square feet in size which do not project from the structure.

3. COM and MPD zones: Commercial signs are permitted subject to the following conditions:

- a. Commercial/light industrial structures may have one permanent sign identifying the business on each side fronting a street. These signs may not exceed the height of the business structure or 90 square feet in area.
- b. Commercial signs shall be located at least one-half the required building setback from any right-of-way.
- c. Displays and signs attached to the face of the building and pertaining to items for sale on the premises are permitted.

C. General Sign Regulations.

No sign may obstruct a sidewalk or other driveway or create a traffic hazard.

1. Political Campaign Signs: Political signs may be placed only on private property, shall not be larger than eight square feet, and may not be attached to telephone poles, power poles, or other public utility facilities. Political signs may be displayed 60 days prior to an election and must be removed within ten days after the election. For a successful candidate in a primary election, the sign may remain until the final election. The candidate and the campaign committee for which the sign is displayed is responsible for its removal.
2. Real Estate and Portable Signs: These signs may be placed on an improved street right-of-way so long as they do not obstruct a sidewalk or other driveway or create a traffic hazard, and the sign does not exceed eight square feet in size per side.
3. ~~Temporary Signs: (Define and size)~~ Temporary signs are allowed for a period of four weeks. Shall mean any sign which is not permanently installed or affixed to any sign structure or building and is not displayed for longer than thirty consecutive days.
4. Legally nonconforming signs lawfully erected at the effective date of this code shall be permitted.

D. Lighting.

1. Outdoor: Private outdoor lights and lighted signs shall be located or shielded to minimize glare beyond the property served.
2. Indoor Business Lighting: If a business use is located so that light from its windows would illuminate the interior of any residence, nursing or convalescent home, hospital or other use where persons are expected to sleep, the business windows must be curtained or the light emissions otherwise reduced from 9:00 P.M. to 7:00 A.M. so that its light emissions do not unreasonably affect adjacent property.

E. Signs on Utility Poles.

No private signs shall be permitted on utility poles.

**25.01.110 CONDITIONAL USES, UNCLASSIFIED USES AND VARIANCES.**

A. Conditional Use, Unclassified Use and Variance Procedures.

1. Applications: Applications for a conditional use, unclassified use or variance shall be submitted to the Mayor or his designee, and shall contain the name and address of the applicant, legal description or street address of the property, nature of the action requested, a site plan and a concise statement of why the proposed use complies with the criteria of Section 25.01.110, as applicable. The application shall be accompanied by a plot plan showing the grade, the height, the lot coverage, the dimensions of all existing structures and the distance from property lines and all improvements to be added to the property, including

yard areas, etc. Permit and application fees as established by Ordinance and recorded in the Town's Schedule of Land-Use Application fees. The applicant may be required to furnish any additional written or graphic information necessary to enable the Planning Commission and Town Council to act on the application.

2. Notice and Hearing: Notice of application shall be given, and hearings held and a determination reached thereon as set forth in Section 25.01.140(E).

3. Decision: A conditional use or variance application included in an application for site plan approval shall be considered together with the site plan.

4. Conditional use permits are granted for a period of two years. At the Town's option, the permit may be reviewed, revoked or additional conditions attached at the time of the two year review.

#### B. Conditional Uses.

Purpose of Conditional Use Permit. It is the purpose of this chapter to establish review and approval procedures for unusual or unique types of land uses which, due to their nature, require special consideration of their impact on the neighborhood and land uses in the vicinity. The purpose of the conditional use permit is to allow certain uses in zoning districts that would normally be prohibited, when the requested use is consistent with the goals and policies of the comprehensive plan or zoning code and is deemed consistent with the existing and potential uses within the zoning district. No existing building or structure shall be converted to a conditional use unless such building or structure complies, or is brought into compliance, with the provisions of this section.

A conditional use permit is a mechanism by which the Town may require specific conditions on development or the use of land to ensure that designated uses or activities are compatible with other uses in the same zone and in the vicinity of the subject property. If imposition of conditions will not make a specific proposal compatible, the proposal shall be denied. The Town Council may grant conditional use permits only if all other applicable provisions of this Code are fulfilled and:

1. The proposed use will not be injurious to the neighborhood or otherwise detrimental to the public health, safety, morals and general welfare or to the environment result in substantial or undue adverse economic, aesthetic, or environmental effects on adjacent property;

2. The proposed use will not create a hazard for pedestrian or vehicular traffic. Traffic and circulation patterns of vehicles and pedestrians relating to the proposed use shall not be detrimental to the existing and proposed allowable uses in the zoning district. The traffic and circulation patterns shall assure safe movement in the surrounding area;

3. Adequate access will be available for emergency vehicles;

4. Adequate off-street parking will be provided to prevent congestion of public streets.

5. The bulk and lot coverage of the proposed use shall be compatible with the surrounding property, or shall be conditioned so as to not impose an adverse impact upon the surrounding property.

6. Building and structure heights shall conform to the requirements of the surrounding zoning district. Bell towers, public utility antennas or similar structures may exceed the height requirements for the zoning district upon approval of a variance.

7. Potential noise, light and glare impacts relating to the proposed use shall not unduly impact nor detract from the surrounding properties in the zoning district. The Planning Commission and Council shall find that the potential noise, light and glare shall not deter from the surrounding properties in the zoning district.

8. Hours of operation. The hours of operation shall not create intrusive impacts into the neighborhood.

9. Landscaping. Landscaping shall be provided in all areas not occupied by buildings or paving. The Planning Commission and Council may require exceptional landscaping as a condition.

Effect of Conditional Use Permit. a. Once a conditional use permit is approved, no building or development shall occur contrary to that specified in the conditional use permit.

b. The owner shall record a declaration with the Pierce County Auditor showing the land to be bound by a conditional use permit.

1. The declaration shall reference the official files of the town through which the permit was granted.

2. The declaration shall be a covenant running with the land.

3. No building permit shall be issued unless such declaration is recorded.

4. No building permit shall be issued for structures other than those specified in the permit.

C. Unclassified Uses.

In creating use classifications, the Town has considered the characteristics which make uses comparable and compatible. It is not possible to enumerate and classify every use to which land might be devoted. Persons wishing to establish an unclassified use may request a classification from the Town Council which shall consider such requests during its annual review (if required by law). At the discretion of the Mayor, uses sufficiently similar to classified uses can be permitted subject to approval by the Council and any conditions the Council considers appropriate. On receipt of such a request, the ~~Town~~ Mayor shall ascertain all pertinent facts and make an appropriate recommendation to the Town Council for classification based upon similarities or dissimilarities, compatibility or incompatibility, with enumerated uses, for any proposed use:

1. Not listed as a permissible or conditional use in any zone; or

2. Involving new technology developed since adoption of this Code; or

3. Which, because of unusual processes or material, possesses performance characteristics different than those usually associated with the use and requires the use to be placed in a more restrictive classification.

D. Variances.

1. Authorization for Variance - Findings Required: A variance from any area, set back, yard, parking or other dimensional requirements contained in this chapter shall be granted by the Council after receiving the recommendation and written findings of fact from the Planning Commission if the Council finds that the standards in subsection 25.01.110.~~C~~D(2) of this section are established by the applicant.

2. Variance Standards: Before any variance can be granted, the applicant must establish the following:

a. There is a unique condition relating to the size, shape, topography, location, or character of surrounding uses that would make the application of the regulation too restrictive; or

(1) The purpose of the regulation from which the variance is sought would not be harmed by allowing the variance, thus making application of the regulation to the applicant's property unreasonable. Such uses may include fire safety, adequate traffic sight distance, and open space for light, air, and recreational uses; and

- b. Approval of the variance will not grant a special privilege not enjoyed by other properties in the vicinity; or
  - (1) The proposed design is more environmentally sensitive than would be the case if the design met the regulation from which a variance is sought; and
- c. The proposed variance will not conflict with the Town's Comprehensive Plan; and,
- d. Will not adversely affect the neighborhood's character; and,
- e. Will not adversely affect the use or value of neighboring properties.

3. Projections into Yard Setbacks: The following intrusions may project into any required yard setback and shall not require a variance:

- a. Roof overhangs (eaves), belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, sun shades, gutters, and other similar features provided that such features do not extend more than twenty-four (24) inches into any required yard setback;
- b. Chimneys, flues, and similar fireplace structures so long as they do not extend more than two (2) feet into the side yard setback or three (3) feet into a front or rear yard setback;
- c. Uncovered porches, steps, balconies and platforms that do not extend above the floor level of the second floor may extend up to six (6) feet into the front or rear yard setback or two (2) feet into a side yard setback;
- d. Planting boxes or masonry planters not exceeding forty-eight (48) inches in height above the finished grade level may extend into any required front or rear yard setback.

4. The provisions of this Section shall prevail when they conflict with the provisions of Ruston Municipal Code Section 25.01.040 and Section 25.01.050.

5. Variance subject to Conditions: the Planning Commission or Council may grant a variance subject to conditions or safeguards to ensure that the purpose and intent of the Town's Zoning Regulations and Comprehensive Plan will not be violated.

6. Report and recommendation from Mayor Building Inspector: The planner or other Town official designated by the Mayor Town Building Inspector shall prepare a written report and recommendation on the variance application and shall submit such report to the commission prior to their consideration of the variance application in a public hearing.

#### **25.01.120 NON-CONFORMING BUILDINGS, LOTS OF RECORD AND USES.**

A. Non-Conforming Buildings and Uses.

1. Non-Conforming Buildings: A non-conforming building or use is one which was lawfully established but no longer conforms to the regulations for the zone where it is located. Existing accessory buildings are exempt from the requirements of this Section, but if they accessory buildings are damaged by fire, explosion, other casualty, act of God, or other cause beyond the owner's control, they must be rebuilt to current Uniform Building Code standards.

2. Non-Conforming Uses: Non-conforming uses apply to uses of buildings, structures, land, and uses which become non-conforming as a result of this Code.

B. Effect of Removal or Destruction of Non-Conforming Buildings or Discontinuance of Non-Conforming Use.

1. Non-Conforming Buildings: If a non-conforming building is destroyed, removed, or suffers damage of 50% or more of its replacement cost in the judgment of the Town's Building Official, future uses of the land must conform to this Code.
2. Non-Conforming Uses: If a non-conforming use is discontinued for more than one year, the land or building may not again be occupied or used except by a conforming use.

C. Maintenance and Reconstruction.

Upkeep, repair, and maintenance of non-conforming buildings is permitted. A non-conforming building damaged by less than 50% 75% of its replacement cost in the judgment of the Town's Building Official by fire, explosion, other casualty, act of God or other cause beyond the owner's control may be continued and reconstructed, subject to all provisions of Town building codes, if restoration is commenced within one year from the damage and completed with reasonable diligence.

D. Structural Alteration or Enlargement.

Non-conforming buildings may not be enlarged or structurally altered except:

1. To make the building more conforming.
2. Where required by law.
3. Where a building is non-conforming only because of substandard yards, open spaces, area, or height and the structural alterations and enlargements do not increase the degree of non-conformity.
4. Structural alterations which do not increase the floor space are permitted where necessary to adapt a non-conforming building to new technologies or equipment for the existing uses in conformance with all applicable building regulations.
5. Other structural alterations may be authorized as conditional uses under Section 25.01.110, Conditional Uses, Unclassified Uses and Variances, if the alteration will improve the safety, appearance, or functionality of the property or make it less detrimental to other uses in the vicinity. Alterations must comply with all applicable building regulations.
6. Where necessary to provide access for elderly or disabled persons.

Nothing in this title shall be deemed to prevent the strengthening or restoring to a safe condition of any nonconforming bldg or part thereof declared to be unsafe by order of any Town official charged with protecting the public safety. Alterations or expansion of a nonconforming use which are required by law or a public agency in order to comply with public health or safety regulations are the only alterations or expansions allowed.

E. Exception for legally established Multi-Family Dwellings:

Multiple family dwellings in existence at the time of adoption of this code which were legally established through special permit such as a variance or which were constructed in conformance and compliance with the zoning code in effect at the time of construction shall be considered legal non-conforming uses and shall not be deemed non-conforming in terms of use or density provisions of this code. Such buildings may be rebuilt after a fire or other natural disaster to their original dimensions but may not be changed except as provided in this section.

Multiple family dwellings may also be brought into compliance with this section by obtaining a permit for existing multiple family dwelling unit legalization as outlined in section 25.01.040.

F. Nonconforming use of land - The nonconforming use of land (where no building is involved) existing on the effective date of the ordinance codified in this title may be continued provided that:

1. No such nonconforming use of land shall in any way be expanded or extended either on the same or adjoining property;
2. If such nonconforming use of land or any portion thereof is discontinued or changed any future use of such land shall be in conformity with the provisions of this title;

G. Nonconforming lots of record.

1. In any district in which single family dwellings are permitted, a single family dwelling and customary accessory building may be erected on any single lot of record as of the effective date of this code, notwithstanding limitations imposed by other provisions of this title. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width of the lot shall conform to the regulations for the district in which such lot is located.
2. In all single family zoning districts, if two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of the effective date of this code, and if all or part of the lots do not meet the minimum requirements established for lot width and area, the land involved shall be considered to be an undivided parcel for the purposes of this title, and no portion of the parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this title, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this title.

### **25.01.130 REZONES**

**A. Initiation.**

An amendment of the existing zoning ordinance or map, whether it is a rezone or an addition, may be initiated by the Planning Commission, the Town Council or any interested property owner.

**B. Application.**

Applications for a rezone of property within the city shall be made with the Town Clerk on forms provided and upon payment of the appropriate fee. Applications must include a detailed vicinity map and plot plan, if applicable. Applications will be considered once a year during the Town's annual review of the Zoning Code and Comprehensive Plan.

**C. Plot Plans.**

Whenever an applicant seeks a rezone of property, the planning commission shall require that a detailed plot plan and vicinity map be submitted with the application to show all entrances, exits, setbacks, building height, off-street parking, streets and sidewalks, storage yards and screening. The items set out in this section and such other items as pertain to health, safety and the general community welfare shall be subject to approval by the commission and the council.

**D. Planning Commission Review and Recommendation.**

Commission review and recommendation shall comply with Section 25.01.140.

**E. Town Council Action.**

1. Within sixty days after the public hearing, the commission shall transmit its findings and recommendations to the council for decision. The council may hold additional public hearings provided due notice is given as set forth in Section 25.01.140(E).
2. Within a reasonable time after receipt of the recommendations of the commission the council shall, in a public meeting, either affirm, modify or return the application to the commission for further consideration. In the event the council modifies the recommendation of the commission, the council shall make its own findings of fact and set forth in writing its reasons for the action taken.
3. Criteria for Council review shall include: consistency with the Comprehensive Plan; consideration of the public health, safety and welfare; and any demonstration of changes in conditions warranting the rezone.
4. Any appeal from the decision of the council may be made in accordance with Section 25.01.140(E).

#### **25.01.140 ADMINISTRATION, SITE PLANS, APPEALS AND AMENDMENTS.**

##### **A. Purpose.**

This Chapter describes the administrative procedures governing applications for permits and approvals required by the Town of Ruston Zoning Code and Comprehensive Plan.

##### **B. Applicability.**

1. Conditional Use Permit: A conditional use permit is required for any proposed use which is listed as a conditional use in the zone use classifications.
2. Unclassified Use Permit: An unclassified use permit is required for any proposed use which is not explicitly listed as a permitted or conditional use in the zone use classifications subject to the requirements listed in Section 25.01.110(B).
3. Variance Permit: A variance permit is required for any proposed use which includes a feature which is at variance with a stated requirement in the zone use classifications.
4. Comprehensive Plan Amendment Approval: An amendment approval for any modification to the Comprehensive Plan, Comprehensive Plan Map, Zoning Code, or Zoning Map ~~would need to be~~ must be reviewed through the Town's annual review process.
5. Special Use Permit: A special use permit, where required in this code shall be reviewed under the provisions of this section. Chapter.

##### **C. Related Measures.**

Additional procedures and permits may be required which are in addition to the requirements set forth in this Chapter and governed by other ordinances, laws or regulations. If a project requires more than one permit or approval, the Mayor may order a consolidation of applications to avoid unnecessary costs and delays.

##### **D. Applications.**

1. Preliminary Meeting. All applicants for permits or approvals are encouraged to meet with the Mayor or designee, prior to submitting an application, to discuss the project, application requirements, obtain any necessary application and checklist forms, and determine any necessary information for the subsequent Review meeting.

2. Project Scope Review. The applicant may meet with the Mayor and/or Council to present and discuss the general scope of the project. The Mayor may, depending upon the scope or particular features of the project, request that representatives from other agencies participate in the review process.

3. Conditional Use, Unclassified Use, Special Use, and Variance Permits Applications. An application for these permits or approvals shall contain a Site Plan which shall include:

- a. Name, address, telephone number, and signature of the applicant, and the property owner (if different from the applicant).
- b. Legal description and tax lot of subject property.
- c. Statement of proposed use or action
- d. Statement of how proposed use complies with the goals, objectives, and policies of the Comprehensive Plan.
- e. A vicinity map.
- f. A plot plan at 1"=50', or other appropriate scale as determined by the Mayor, showing:

~~All existing structures, roads, parking, tree masses, proposed lot line adjustments and improvements and topographic contours. The contour interval shall be 5 feet or less.~~

- (1) North point; and
- (2) setbacks and heights; and
- (3) Proposed lotline adjustments and improvements; and
- (4) Boundaries, easements, and ownerships as set forth in the legal description; and
- (5) Topography at five foot contour intervals; and
- (6) Existing structures and improvements, parking; and

(7) Location of existing vegetation including all trees over ten inches in diameter that might be impacted by the proposal, watercourses, other natural features and, environmentally sensitive areas; and utilities and/or septic design, if appropriate; and

- (8) Adjacent streets and rights-of-way; and
- (9) The terms, conditions, covenants, and agreements under which the subject property is bound, if any; and
- (10) An environmental checklist, when required.

g. A calculation of the subject property area.

h. Statement of compliance with sections of 25.01.110 that apply to the application being submitted.

i. Permit and application fees as established by ordinance and recorded in the Town's Schedule of Land-Use Application Fees.

j. Other information deemed appropriate by the Mayor, Town Council or Planning Commission including but not limited to:

1. Topographic contours on the Plot plan. The contour interval shall be 5' or less.

2(1) Soils Map and general description of soil types and their suitability for the proposed uses.

3(2) Landscape Plan.

4(3) A calculation of the number of dwelling units (if involving residential), gross floor area (if involving non-residential) building coverage area, impervious surface area, number of employees (if non-residential) and parking spaces.

5(4) Building Elevations.

6(5) Grading Plan and evidence of compliance with Section 25.01.080.

7(6) Storm Drainage Plan and evidence of compliance with Section 25.01.080.

8(7) Utilities Plan and evidence of compliance with Comprehensive Plan goals, objectives, and policies related to Utilities.

9(8) A draft of any proposed conveyance, conditions, and restrictions related to maintenance of open space and commonly owned improvements.

4.5. Amendment Approval Application.

a. An application for an amendment to the Comprehensive Plan or Zoning Code shall contain:

(1) A precise statement of the proposed amendment and reasons for proposing.

(2) Any other information deemed appropriate by the Mayor, Council or Planning Commission.

b. An application for an amendment to the Comprehensive Plan Map or Zoning Map shall contain:

(1) A complete legal description of the subject property.

(2) The names and addresses of all recorded owners of the subject property.

(3) The names and notarized signatures of record owners of at least 51% of the tax parcels within the subject property who support the amendment (if an application for a Zoning Map amendment only, or by other than Town Council).

(4) The names and addresses of all record owners of property lying within 300 feet of the exterior boundary of the subject property.

(5) Permit and application fees as established by ordinance and recorded in the Town's Schedule of Land-Use Application Fees (if application by other than Town Council).

(6) Any other information deemed appropriate by the Mayor, Council or Planning Commission.

E. Review, Notice, Hearing, and Decisions.

1. The Mayor, Town Council and Planning Commission will hear and review all Conditional Use, Unclassified Use, Special Use, Variance and Rezone applications under this Chapter pursuant to the procedures in Title 19 of the Ruston Municipal Code.
2. The Mayor's Review: The Mayor shall review and prepare a report to the Planning Commission of all adequate applications. The Clerk-Treasurer shall transmit the report to the Planning Commission, Applicant, and Town Council within thirty (30) days of receipt of an adequate application. The Clerk-Treasurer shall notify all property owners within 300 feet of the project boundaries even if such properties are outside of the Town limits, and all persons who within one (1) year previously had filed a request for notice of Land Use Action with the Town Clerk, of the Public Hearing by the Planning Commission on the application. Public notice shall be published in a newspaper of general circulation in the Town and posted as provided in this chapter not less than ten days prior to the public hearing. One copy of the public notice shall be posted in a conspicuous location on the real property involved and one additional copy shall be posted in a public place.
3. Planning Commission Review and Recommendation: The Planning Commission shall review the Mayor's report and conduct a public hearing on the application. The Planning Commission shall prepare a written report and make a recommendation to the Town Council on the application within thirty (30) days of receipt of the Mayor's report. The Mayor shall transmit a copy of the Planning Commission's report and recommendation to Town Council, applicant, and all parties of record.
4. Town Council Review and Decision: The Town Council shall consider the application in a public meeting within thirty (30) days of receipt of the Planning Commission's recommendation. The Town Council shall vote to: 1) approve the application as submitted; 2) approve the application subject to modifications or development conditions; 3) disapprove; or 4) refer the application back to the Planning Commission for further consideration within a specified period of time. The Mayor shall transmit a copy of the Town Council's report and decision to the applicant and all parties of record..

#### F. Appeals.

The decision of the Town Council pursuant to this Section is final unless within twenty (20) days of the Council's oral decision on the application or within twenty (20) days of the Council's oral decision on the request for reconsideration, whichever is later, an aggrieved person applies for a review of the decision in accordance with State law, from the Superior Court in and for the County of Pierce, State of Washington.

The Council may reconsider any action after it becomes final if: 1) the action was based in whole or in part on erroneous facts of information; 2) the action when taken failed to comply with existing and applicable laws or regulations; or 3) an error of procedure occurred which prevented the consideration of interests of persons directly affected by the action.

An aggrieved person feeling that the decision of the Town Council was not supported by substantial evidence in the record or that the Town Council failed to apply the law correctly may make a written request for review by the Town Council. The request for reconsideration shall be filed with the Town clerk within twenty (20) days of the Council's oral decision. The request shall specifically set forth the alleged errors. The Town Council may, after review of the record, take such further action as it deems proper including convening additional hearings, and may render a revised decision. The decision of the Town Council shall be subject to reconsideration only one time, even if the Town Council reverses or modifies its original decision.

#### FG. Effect of Approval

All permits and approvals granted pursuant to this Code shall be binding on the applicants and their successors, assignees, contractors and any other party participating in the development, if the project is undertaken.

An approved amendment shall be binding on all persons after their effective date, except where rights to building permits and other Town approvals are vested under a prior building permit application or an approved Site Plan.

1. Expiration: Any permit or approval granted pursuant to this Code becomes null and void if use or development is not commenced pursuant to the approval within the time specified in such permit or approval or, if no date is specified, before the time noted in the following schedule:

- a. Conditional Use: 2 years
- b. Unclassified Use: 2 years
- c. Variance: 2 years

The Mayor may extend an approval or permit if the applicant demonstrates that substantial progress has been made toward completing the requirements, or that the delay is caused by factors beyond the applicant's control. The Mayor's extension shall be submitted in writing to all parties and the Town Council.

#### GH. Enforcement.

Any violation of this code, or a permit issued pursuant to this code, shall constitute a class civil violation of RMC. It is the duty of the Mayor or the Mayor's designee to determine the applicability of this title for enforcement purposes. All officials and employees of the Town vested with the duty or authority to issue permits, shall conform to the provisions of this Code and shall issue no permit for any use, building or purpose which violates or fails to comply with conditions or standards imposed by this Code. Any permit issued in conflict with the provisions of this Code, intentionally or otherwise, shall be void. Whenever a violation of this Code occurs, or is alleged to occur, any person may file a written complaint stating the nature of said violation. Upon receipt of such complaint, the Mayor, or his/her agent, shall establish a record, investigate and take the appropriate action to abate the alleged violation.

##### 31. Penalty Scope.

The civil penalty shall generally be applied to first violations or other violations when deemed effective and appropriate. The criminal penalty shall be used when in the opinion of the Mayor or Town attorney, the civil remedy will not be effective, timely, or for a second or subsequent violation.

##### 52. Violation - Misdemeanor Penalty.

Violation of any provision of this title shall be a misdemeanor. Each day a violation is allowed to exist shall constitute a separate offense which, upon conviction, shall be subject to a fine of up to five hundred dollars for each violation.

##### 2.3. Abatement Revocation of Permit.

~~In addition to or as an alternative to any other judicial or administrative remedy provided herein or by law, the Mayor may by written notice order a land use ordinance violation to be abated. The Mayor may order any person who creates or maintains a violation of any land use ordinance, or rules and regulations adopted thereunder, to commence corrective work and to complete the work within such time as he determines reasonable under the circumstances. If the required corrective work is not commenced or completed within the time specified, the Mayor will proceed to abate the violation and cause the work to be done. The Mayor will charge the costs thereof as a lien against the property and as both a joint and separate personal obligation of any person who is in violation.~~

Any permit issued under this code may be revoked by the upon the finding of any one or more of the following:

- a. That the approval was obtained by deception, fraud or other intentional or misleading representation;

b. That the use for which approval was granted has been changed or has at any time been discontinued for a year or more;

c. That the permit granted is being exercises contrary to the terms or conditions of such approval or in violation of the zoning code; or

d. That the use for which the approval was granted was so exercised as to be detrimental to the public health or safety.

4. Violation Cumulative Civil Penalty

In addition to, or as an alternative to any other penalty, any violation shall incur a cumulative civil penalty in the amount of up to 250 dollars per violation per day from the date set for correction until the violation is corrected, plus court and attorney costs associated with collection.

4.5. Citation - Assessment of Penalty

Whenever the Mayor determines that a continuing violation of this Code is occurring, he is authorized to issue a citation prepared in compliance with statutes and court rules, directed to the person or persons permitting, committing, or causing such a violation. A citation issue under these provisions shall contain the following information:

- a. The name and address of the person or persons to whom the notice of violation is directed;
- b. The street address when available or a legal description sufficient for identification of the building, structure, premises, or land upon which or within which the violation is occurring;
- c. A concise description of the nature of the violation;
- d. A statement of the action required to be taken as determined by the official and a date for correction which shall not be less than three weeks from the date of service of the citation unless the Mayor has determined the violation to be imminently hazardous.

If after such period of time, compliance with this Code is not obtained, the violation shall be referred to the Town attorney for appropriate legal action. On behalf of the Town, the Town attorney may seek enforcement by either criminal prosecution or civil action.

Section 3. This ordinance shall be in effect June 20th, 1997 and will be shown on the customer's bills of July 22, 1997.

**PASSED THE COUNCIL AND APPROVED** by me this 7th day of July, 1997.

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Mayor C. Michael J. Transue

**ATTEST:**

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Clerk-Treasurer