

Subject: Ordinance #1467 – Adding a New Chapter 19.10 to the Ruston Municipal Code Regarding imposition and Collection of Development Fees

(Companion Resolution #614 – Update to Master Fee Resolution will be scheduled For action March 1st)

Proposed Council Action:

No Action Requested. Unless directed otherwise, Ordinance #1467 will be brought back for Second Reading and Adoption on March 1, 2016. Also on March 1, 2016, Resolution #614 (Master Fee Resolution) will be brought forward for passage contemporaneous with ORD #1467.

Dept. Origin: Planning Dept.

Prepared by: Jennifer Robertson, City Attorney’s Office

For Agenda of: February 16, 2016

Exhibits: Ordinance #1467 Resolution #614

	Initial & Date
Concurred by Mayor:	_____
Approved by City Planner:	_____
Approved as to form by City Atty:	<u>JSR/2-11-16</u>
Approved by Finance Director:	_____
Approved by Department Head:	_____

INFORMATION / BACKGROUND

For the past several years, the City has been in the process of cleaning up, clarifying and updating its development and construction codes. This work has included removing fees from the Code and placing them into a Master Fee Resolution which is updated regularly. In addition, the City created the office of hearing examiner and has been updating its codes to incorporate the change to a hearing examiner system. In the course of all the updating work, the City has reviewed codes from other jurisdictions to consider standard procedures of other Washington cities. Out of this work, the City has examined how to best impose and collect development fees.

The City is permitted to recover the cost to the City of processing permit applications, inspecting and reviewing plans or preparing detailed statements as required by Chapter 43.21C RCW.¹ While the City has adopted a Master Fee Resolution which is amended from time-to-time, the City has not adopted specific procedures for when fees are collected, when refunds may be appropriate and what actions to take when fees become delinquent. Both the proposed updated Master Fee Resolution (RES 614) and new Chapter 19.10 RMC (Ordinance #1467) will work together to create a comprehensive set of guidelines and requirements for imposing, refunding, explaining and collecting development fees. The key provisions of these two pieces of legislation are summarized below.

¹ RCW 82.20.020

Chapter 19.10 RMC – ORD 1467

1. Creation of Greater Responsibility for Payment of Fees.

Section 19.10.020 restricts the City from issuing any permits or certificates of occupancy when fees are unpaid. This section also requires the naming of a responsible party as part of the permit process, must like is required when you visit a doctor.

2. Delinquent Fees.

Section 19.10.050 spells out when fees become delinquent (unpaid for 30+ days), imposes interest (12% per year or \$1 minimum) and authorizes the use of a collection agency. This section also allows a \$25 NSF charge for bounced check. Most importantly, this section allows the issuance of a Stop Work Order, suspension of permit processing and cancelation of applications for projects with delinquent fees. If there is a history of delinquent fees, the Planning Director may also place delinquent accounts on a cash-only status.

3. Providing the Planning Director with Authority.

Under 19.10.060, the Director may stop work if work is proceeding without a permit or approval fee unpaid and may impose penalties in accordance with the Code Enforcement procedures set forth in Chapter 25.03 RMC.

4. Civil Penalties.

Section 19.10.070 allows the City to impose civil penalties in the amount of \$27/day for failing to comply with this new fee chapter. These fees would be in addition to any other code enforcement penalties, interest, NSF fees, etc.

Master Fee Resolution – RES 614

The proposed updated Master Fee Resolution includes new procedures for imposing Planning and Engineering Fees. These procedures are meant to work in concert with new Chapter 19.10 RMC to provide a full set of regulations with regard to development fees. The major new sections in the Master Fee Resolution are contained in Section 2 of the Resolution and are detailed below.

1. Base fee and hourly fee – Section 2.1.

The new “base fee” is changed to \$250 with hourly rates for land use review established at \$172.50 and other hourly rates at \$190. These rates are inclusive of administrative expenses borne by the City for the costs of billing and processing. Minimum increments are ¼ hour.

2. Miscellaneous fees – Section 2.2.

This section spells out when additional fees may be imposed, including for failure to cancel appointments, use of City planning/engineering officials as expert witnesses, re-inspection fees, changing addresses, and for copies of records.

3. Time and Collection of Fees – Section 2.3.

This specifies that the minimum fee is collected at the time of application with additional fees being billed and paid during the review process. All fees must be paid prior to issuance of the permit, approval, denial, decision or recommendation.

4. Refunds – Section 2.4.

This section provides a procedure for obtaining fee refunds for over-payment of fees when an application is canceled or withdrawn prior to completion of review. The applicant must request the refund within 90 days. This section allows the City to apply any refundable fees to outstanding balances due on other applications from the same applicant.

5. Revisions and additions to applications – Section 2.5.

This section allows the City to assess additional fees for revisions and amendments.

6. Fees for Land Use Review – Section 2.6.

This section spells out exactly how land use review fees are established and paid, provides the Planning Director with discretion to set initial payment amount for fees for work not already established provided that it is between the minimum fee of ½ hour of review time and a maximum of 10 hours review time. This section also describes how the fees charged by the City are credited and divided. A correction fee of \$345 is established for additional correction cycles/non-responsive applicants. This section contains the table of fees that is in every Master Fee Resolution. New this year is the fees for street vacations which is a procedure that the Council adopted in 2015.

FISCAL CONSIDERATION

By adopting Ordinance #1467 and the Resolution #614, the City will provided greater clarity to applicants regarding what fees are due for development services, how those fees are calculated, when those fees are due and the consequences for failure to timely pay these fees. This will also provide a better process and mechanism for the City to recover these fees.

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

No Action Requested. Unless directed otherwise, both Ordinance #1467 and Resolution #614 will be brought back for Action on March 1, 2016.

ORDINANCE NO. 1467

AN ORDINANCE OF RUSTON, WASHINGTON, RELATING TO PERMIT FEES, CREATING A NEW CHAPTER 19.10 ESTABLISHING FEE PAYMENT AND COLLECTION PROCEDURES FOR PLANNING AND DEVELOPMENT FEES, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Ruston has been engaged in a multi-year process to update its codes and procedures, including development and construction codes and fees; and

WHEREAS, in order to create clear procedures and standards for collection of such fees, a new Chapter 19.10 should be added to the Ruston Municipal Code; and

WHEREAS, on February 16, 2016, the City Council held the first reading of this Ordinance; and

WHEREAS, on March 1, 2016, the City Council adopted this Ordinance during its regular meeting at the second reading; **NOW, THEREFORE,**

THE CITY COUNCIL OF THE CITY OF RUSTON HEREBY ORDAINS AS FOLLOWS:

Section 1. A new Chapter 19.10 is hereby added to the Ruston Municipal Code to read as follows:

CHAPTER 19.10 -- PLANNING AND DEVELOPMENT FEE PROCEDURES.

19.10.010 -- Purpose.

19.10.020 -- Payment and responsibility for fees.

19.10.030 -- Administration and enforcement.

19.10.040 -- Transition.

19.10.050 -- Delinquent fees

19.10.060 -- Work done without permit—Director's authority.

19.10.070 -- Civil penalty for violations.

19.10.010 -- Purpose.

It is the purpose of this Chapter to establish fee collection policies for all services provided by the Department of Planning and Development, hereafter, "Department" or "DPD," and other City departments that are sufficient to cover their costs of processing applications, inspecting and reviewing plans, and preparing detailed statements required by Chapter 43.21C RCW. The fees are established by the City Council by adoption of a Master Fee Resolution which is updated from time-to-time.

19.10.020 -- Payment and responsibility for fees.

- A. No permit shall be issued or approved, no Certificate of Occupancy shall be issued, no drawing or other data relating to such permit shall be examined, and no certificate or license shall be issued until the corresponding fees prescribed by the City's Master Fee Resolution have been paid.
- B. Unless otherwise specified in this Chapter or by the Master Fee Resolution, each distinct component of an application, review, permit, certificate, license, or other fee collected by the Department shall be charged as a separate fee.
- C. Financially Responsible Party
 - 1. A Financially Responsible Party must be named for any permit, certificate, license, registration or request for service for which a fee is collected under this Chapter. The Financially Responsible Party is liable for all charges incurred pursuant to this Chapter whether or not a favorable decision, recommendation or determination is given by the City, and regardless of whether a permit, license, registration or determination is issued or the project, application or request for service is canceled or denied before issuance.
 - 2. The Financially Responsible Party must be the property owner, lessee, contract purchaser, City or other agency proposing the project, or other service requestor.
- D. The City Clerk is authorized to accept as payment for fees contemplated under the Fee Resolution, the following forms of payment: U.S. currency, cashier's checks, corporate checks, traveler's checks, personal checks drawn on in-state banks, and electronic funds transfers. Further, the City Clerk has full authority to refuse any form of payment where the Clerk believes sufficient causes exists to question the City's ability to collect full payment.

19.10.030 -- Administration and enforcement.

- A. For the purpose of this Chapter, the term "Director" means the Director of the Department or an authorized representative. The "City Clerk" or "Clerk" means the Ruston City Clerk.
- B. The Director is authorized to administer, interpret, and enforce the provisions of this Chapter.
- C. The City Clerk is authorized to collect fees listed in this Chapter, in the City's Master Fee Resolution or other fee-related legislation for the City of Ruston.

- D. Where no definite method is prescribed in this Chapter or in the applicable Master Fee Resolution for calculating the amount of fees, the Director may assess charges as required to cover costs.
- E. The Director has full authority to specify the terms and conditions upon which services and materials are made available, and the fees as determined by the Director shall be consistent with the reasonable estimated cost to the City for furnishing such services or materials.
- F. The total fee assessed for any permit, decision, review, inspection, or approval may be rounded to the nearest whole dollar (rounded down: \$0.01 through \$0.50; rounded up: \$0.51 through \$0.99).

19.10.040 -- Transition.

- A. Land Use and Environmentally Critical Areas Fees. Minimum land use review fees for applications requiring a land use or environmentally critical areas review shall be charged according to the permit fee legislation in effect when the application was received by the City. Hourly fees shall be charged according to the legislation in effect when the review is performed.
- B. Other Fees. Fees for other applications shall be set according to the Master Fee Resolution or other fee legislation in effect at the time the review is performed unless one of the following occurs:
 - 1. The permit is issued within 12 months of the start of the initial review; or
 - 2. If longer than 12 months, the Director determines that there was reasonable and continuous progress on the completion of permit requirements.

If either Item 1 or 2 occurs, the application shall be subject to the Fee legislation in effect at the time the application was received by the Department.

19.10.050 -- Delinquent fees.

- A. Delinquent Fees. Whenever any fees have not been paid within 30 days after the billing date, the person or persons responsible for payment of the fee may be billed, payable immediately, for the remainder of the fees due. Interest shall accrue on the unpaid balance at 12 percent per annum, with a minimum \$1.00 charge. The Clerk is authorized to collect any fees that remain unpaid at 90 days after the billing date, including utilizing an outside collection agency. The cost to the City for the collection services will be assessed against the person responsible as costs, at the rate agreed between the City and the collection agency, and will be added to any late payment or not sufficient fund penalty imposed.
- B. Not Sufficient Funds Fees. Whenever checks accepted prove not to be covered by sufficient funds, the person or persons responsible for payment of the fee shall be billed, payable immediately, for the remainder of the fees due and a \$25 charge. This shall be in addition to the delinquent fees assessed in Section A above.
- C. Remedies.

1. The Director may issue a stop-work order if the person or persons responsible for payment of a fee have not done so within 30 days after the billing. Appeal of any such stop work order shall be in accordance with the procedures contain in Chapter 25.03 RMC.
2. Following notice to the applicant, the Director may suspend processing, and/or withhold issuance of a permit, decision, certificate or approval on any application if fees have not been fully paid until such time as the fees are paid.
3. Following notice to the applicant, the Director may cancel a permit application if fees have not been fully paid. In such case, the applicant shall not be eligible to apply for any refund.
4. Following notice to the applicant, the Director may refer to collection any amounts due under this Chapter and the Master Fee Resolution to a collection agency. The cost to the Department for the collection services will be assessed as costs, at the rate agreed to between the Department and the collection agency, and added to the penalty.
5. Following notice to the applicant, the Director may take other actions to collect amounts due, including but not limited to, placing delinquent accounts on a cash-only basis.

19.10.060 -- Work done without permit—Director's authority.

- A. It is unlawful to proceed with any work or with any portion of any construction, installation, alteration or repair when the fee required this chapter and the Master Fee Resolution have not been paid.
- B. Should it be found that any work is proceeding for which the required permit or approval fee has not been paid, the Director may immediately order the suspension of such construction, installation, alteration or repair by posting a stop work order on the structure or premises and/or by notifying the owner, lessee or person in charge. It is unlawful for any person to remove, mutilate, conceal or destroy posted lawful notice or to proceed with work after posting or notification until written authorization from the Director to proceed with the work has been received. Appeal of any such stop work order shall be in accordance with the procedures contain in Chapter 25.03 RMC.
- C. Penalties may be imposed in accordance with Chapter 25.03 RMC. In addition, for building permits, there may be an additional 150% fee penalty imposed in accordance with the Master Fee Resolution.

19.10.070 -- Civil penalty for violations.

- A. Any person failing to comply with the provisions of this Section shall be subject to a civil penalty in the amount of \$27 per day for each failure to comply, from the date of failure to comply until compliance is achieved. Such civil penalty shall be imposed using the process contained in Chapter 25.03 RMC and is in addition to any other penalties imposed under that Chapter.
- B. The penalty imposed by this Section shall be collected by civil action brought in the name of the City and commenced in Municipal Court. The Director shall notify the City Attorney in writing of the name of any person subject to the penalty and the amount of the penalty and the City Attorney shall, with the assistance of the Director, take appropriate action to collection the penalty.

Section 2. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 3. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 4. Effective Date. This Ordinance shall take effect and be in full force and effect five days after publication, as provided by law.

ADOPTED by the City Council of the City of Ruston and attested by the City Clerk in authentication of such passage on this ____ day of _____, 2016.

APPROVED by the Mayor this ____ day of _____, 2016.

Bruce Hopkins, Mayor

ATTEST/AUTHENTICATED:

Judy Grams, City Clerk

APPROVED AS TO FORM:

Jennifer Robertson, City Attorney

FILED WITH THE CITY CLERK: 2-11-2016

PASSED BY THE CITY COUNCIL: _____

PUBLISHED: _____

EFFECTIVE DATE: _____

ORDINANCE NO: 1467