

**Business of the City Council  
 City of Ruston, WA**

**Subject: Ordinance 1481 – Update of City’s Property Maintenance Code to Implement Hearing Examiner System**

**Dept. Origin: Building Dept.**

**Prepared by: Jennifer Robertson  
 City Attorney’s Office**

**For Agenda of: January 5, 2016**

**Exhibits: Ordinance #1481**

**Proposed Council Action:**

Ordinance #1481 is scheduled for First Reading. Waiver of First Reading and Adoption On January 5, 2016 is requested.

**Concurred by Mayor:**

Initial & Date

**Approved/form by City Atty:**

JSR/12-30-15

**Approved by Planning Director:**

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**Approved by City Bldg Official:**

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**INFORMATION / BACKGROUND**

In January 2015, the City Council created the Office of the Hearing Examiner by adoption of Ordinance No. 1450 which is codified as Chapter 1.20 of the Ruston Municipal Code (“RMC”). During the period between August and December of 2015, the City Council has adopted multiple ordinances to implement the hearing examiner system. It was recently discovered that Chapter 12.05 of the Ruston Municipal Code also needs to be updated for its appeal procedures to be consistent with the use of a hearing examiner and enforcement through the general Code Enforcement Chapter 12.40 RMC.

This update involves changing Section 12.05.090 RMC to delete the detailed appeals procedures which provides appellate authority to the “City Building Code Advisory Board” and replaces those extensive procedures with a cross-reference to the Title 12 Enforcement Chapter 12.40 RMC. The City has no Building Code Advisory Board at this time. This update will make the appeals procedures under the Construction Codes Title 12 internally consistent. This update also fixes an issue with Chapter 12.05 which already cross-reference Chapter 12.40 RMC as the enforcement mechanism yet continued to contain an appeals procedure that differed from Chapter 12.40 RMC.

In order to ensure this consistency amendment takes effect promptly, waiver of First Reading is requested with Second Reading and Adoption occurring on January 5, 2016.

**FISCAL CONSIDERATION**

N/A

**BOARD OR COMMITTEE RECOMMENDATION**

N/A

**RECOMMENDATION / MOTION**

It is recommended that Council waiver first reading and adopt Ordinance #1481.

MOTION: I move to adopt Ordinance #1481 relating to maintenance of property and structures, residential and commercial, updating Chapter 12.05 of the Ruston Municipal Code to amend the appeal procedures contained in RMC 12.05.090 for enforcement of the International Property Maintenance Code to make consistent with the City's Hearing Examiner System and with the Construction Code Enforcement Chapter 12.40 RMC.

**ORDINANCE NO. 1481**

**AN ORDINANCE OF THE CITY OF RUSTON, RELATING TO MAINTENANCE OF PROPERTY AND STRUCTURES, RESIDENTIAL AND COMMERCIAL, UPDATING CHAPTER 12.05 OF THE RUSTON MUNICIPAL CODE TO AMEND THE APPEAL PROCEDURES FOR ENFORCEMENT OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE TO MAKE CONSISTENT WITH THE CITY’S HEARING EXAMINER SYSTEM AND WITH THE CONSTRUCTION CODE ENFORCEMENT CHAPTER 12.40 OF THE RUSTON MUNICIPAL CODE, AMENDING SECTION 12.05.090 OF THE RUSTON MUNICIPAL CODE, AND ESTABLISHING AN EFFECTIVE DATE.**

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WHEREAS, in January 2015, the City Council created the Office of the Hearing Examiner by adoption of Ordinance No. 1450 which is codified as Chapter 1.20 of the Ruston Municipal Code (“RMC”); and

WHEREAS, in accordance with RMC 1.20.020(A), the City Council is authorized to appoint the City Hearing Examiner; and

WHEREAS, on February 17, 2015, the City Council by Resolution No. 598 appointed a City Hearing Examiner; and

WHEREAS, in order to have the Hearing Examiner hear certain matters for the City, the Ruston Municipal Code needs to be updated to change the applicable decision maker to the City’s Hearing Examiner; and

WHEREAS, between August and December of 2015, the City Council has adopted multiple ordinances to implement the hearing examiner system; and

WHEREAS, it was discovered that Chapter 12.05 of the Ruston Municipal Code also needs to be updated for its appeal procedures to be consistent with the use of a hearing examiner and enforcement through the general Code Enforcement Chapter 12.40 RMC; and

WHEREAS, the SEPA Responsible Official has determined that adoption of the updated Property Maintenance Code is exempt from SEPA under WAC 197-11-800(2); and

WHEREAS, on January 5, 2016, the City Council waived the first reading of this Ordinance and moved directly to second reading and adopted this Ordinance during its regular meeting at the second reading; **NOW, THEREFORE**

**THE CITY COUNCIL OF THE CITY OF RUSTON DOES HEREBY ORDAIN AS FOLLOWS:**

**Section 1.** Section 12.05.090 of the Ruston Municipal Code is hereby amended to read as follows:

**12.05.090 - Means of appeal.**

Section 111 of the IMPC is hereby amended to read as follows:

111.1 Application for appeal and time to file. Any person directly affected by a notice or order of the Building Official issued under this code shall have the right to appeal such notice or order in accordance with the appeal procedures contained in the Title 12 Enforcement Chapter 12.40 of the Ruston Municipal Code. ~~to the City Building Code Advisory Board, under the authority set forth in RMC Section 12.20.020, provided that a written application for appeal is filed within ten (10) working days after the day the notice or order was served. However, if the premises, building or structure identified in the notice or order is in such a condition as to make it immediately dangerous to the life, limb, property or safety of the public, any individual or adjacent property and is ordered vacated and placarded in accordance with this code, such appeal shall be filed within five (5) days from the date of the service of the notice or order of the Building Official.~~

~~Appeals shall be delivered to the City Clerk by mail, by personal delivery or by fax before 5:00 p.m. on the last business day of the appeal period. Appeals received by mail after 5:00 p.m. on the last business day of the appeal period will not be accepted, no matter when such appeals were mailed or postmarked. For purposes of computing the time for filing an appeal, the day the decision is issued shall not be counted. If the last day of the appeal period is a Saturday, Sunday or a holiday designated by RCW 1.16.050 or by a City ordinance, then the appeal must be filed on the next business day.~~

~~A. Standing. Only parties of record may file an administrative appeal. The term "parties of record" shall mean: (a) the applicant for a permit or the person to whom any notice or order is addressed; (2) any person who submitted written comments concerning the application, excluding persons who have only signed petitions or mechanically produced form letters; (3) the City Council; (4) property owners within 300 feet of the property subject to the project~~

permit; and (5) any person who can demonstrate that he/she is aggrieved by the action described in subsection C above.

Form of appeal.

B. Form of appeal. The written application for appeal must be accompanied by the appeal fee set forth in the City's fee resolution and contain the following:

1. A list of all appellants, their addresses and phone numbers, and a brief statement setting forth the legal interest of each of the appellants in the premises or structure involved in the notice and order;

2. A statement describing the appellant's standing to appeal.

3. A brief statement in ordinary and concise language of the specific order or action appealed from, together with any material facts claimed to support the contentions of the appellant. This statement shall include the appellant's statement that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

3.[4.] A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed that the appealed from notice or order should be reversed, modified or otherwise set aside.

4.[5.] A statement that the appellant(s) has read the appeal and that he/she believes the contents to be true, followed by the appellant's signature.

C. Effect. The timely filing of an appeal shall stay the Building Official's decision until such time as the City Council makes a final decision or the appeal is withdrawn.

D. Processing of appeal. Upon receipt of any appeal filed pursuant to this section, the Building Official shall schedule a hearing on the appeal before the City Council.

E. Scheduling and noticing appeal. Except for appeals of stop work orders, the City Clerk shall fix a date, time and place for the hearing of the appeal, as soon as practicable after receiving the written appeal. Appeals of stop work orders shall be scheduled to be heard within fifteen (15) days after the appeal is filed, even if a special City Council meeting must be held. Written notice of the time and place of the hearing shall be given at least ten (10) days prior to the date of the hearing to each appellant by the City, by either causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal.

F. Burden of proof. Except for those appeals based on a Notice and/or Order issued to Vacate, to Demolish or Repair an Unsafe Structure or Equipment, the appellant shall bear the burden of proof in the appeal.

G. Final decision-making. The written decision of the Board on the actions and appeals filed under this section shall be final. Appeals of the Board's decisions may be filed with the Pierce

~~County Superior Court within 21 days of issuance of the final, written decision as provided in Chapter 36.70C RCW.~~

~~H. After any order of the Building Official or the Building Code Advisory Board has become final, it shall be unlawful for any person, corporation or entity to whom any such order is directed, to fail, neglect or refuse to obey any such order. Any such person who fails to comply with any such final order is subject to a civil penalty, as set forth in Chapter 12 of the Ruston Municipal Code. Any person, corporation or entity who fails to comply with a final order to Vacate, Demolish or Repair an Unsafe Structure or Equipment is guilty of a misdemeanor. If, after any order of the building official or Building Code Advisory Board made pursuant to this code has become final, and the person to whom such order is directed shall fail, neglect or refuse to obey such order, the Building Official may cause such person, corporation or entity to be prosecuted under Chapter 12 of the Ruston Municipal Code or coordinate with the City Attorney to institute any appropriate action to abate such premises or structure as a public nuisance.~~

**Section 2. Severability.** If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or 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. Adopted Codes available to Public.** Pursuant to RCW 35.21.180, one copy of all codes adopted by reference in this Chapter have been filed for use and examination by the public in the office of the City Clerk, prior to and after the adoption thereof.

**Section 5. Effective Date.** This Ordinance shall be effective five days after publication as provided by law.

ADOPTED by the City Council of the City of Ruston and attested by the City Clerk in authentication of such passage on this 4th day of January, 2016.

APPROVED by the Mayor this 4th day of January, 2016.

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Bruce Hopkins, Mayor

ATTEST/AUTHENTICATED:

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Judy Grams, City Clerk

APPROVED AS TO FORM:  
Office of the City Attorney

  
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Jennifer S. Robertson

FILED WITH THE CITY CLERK: 12/30/2015

PASSED BY THE CITY COUNCIL: \_\_\_\_\_

PUBLISHED: \_\_\_\_\_

EFFECTIVE DATE: \_\_\_\_\_

ORDINANCE NO: 1481