

Subject: Ordinance Nos. 1507, 1508,
 1509, 1510, 1511 – Update of
 City Business Licensing Code

Dept. Origin: Mayor’s Office
Prepared by: Jennifer Robertson,
 City Attorney’s Office
For Agenda of: September 4, 2018
Exhibits: Ordinance Nos. 1507,
 1508, 1509, 1510 & 1511
 Master Fee Resolution
 #690

Proposed Council Action:

This is on for Second Reading. Adopt
 Ordinance Nos. 1507, 1508, 1509, 1510
 And 1511.

	Initial & Date
Concurred by Mayor:	_____
Approved by City Planner:	_____
Approved as to form by City Atty:	<u>JSR 8-30-18</u>
Approved by Finance Director:	_____
Approved by Department Head:	_____

INFORMATION / BACKGROUND

State law requires all cities with business licensing to update codes by the end of the year as set forth below.

Business license and city B&O tax simplification.

In the 2017 session, EHB 2005 (RCW 35.90) passed requiring three actions by cities with business licenses and local B&O taxes. This law does the following:

1. Requires cities with business licenses to establish a workgroup to create a model business license with a licensing threshold by July 2018 for adoption by all business license cities by January 1, 2019;
2. Requires all cities with business license to administer their business license through the state’s Business Licensing System (BLS) by 2022 or FileLocal by 2020; and
3. Establishes a task force on local B&O tax service apportionment under RCW 35.102.130 to report to the Legislature by October 2018.

Final model ordinance for local business licenses – minimum threshold.

Cities were required to develop a model ordinance for business licensing by July 1, 2018. The ordinance includes a mandatory definition of “engaging in business” and a minimum threshold (or occasional sale) exemption to establish when out-of-town or transient businesses are required to be licensed. All business license cities must adopt it by the end of the year (RCW 35.90.080).

What is in the model?

The model threshold has two pieces: a model threshold and a definition of “engaging in business.”

1. The model business license threshold language would:
 - a. Apply a minimum threshold of \$2,000 per year in the city for businesses that do not have a location in the city;
 - b. Require a license for businesses with a location in the city without regard to the threshold;
 - c. Allow cities the option to require registration with no fee for businesses under the threshold; and
 - d. Only apply to general business licenses, not regulatory licenses or local taxes.
2. The definition of “engaging in business” includes examples of what constitutes business activities in cities that would subject a business to license requirements, as well as those activities that would not. The model language is adapted from the definition that the 45 cities with local B&O taxes have already adopted for the definition of “engaging in business” in the B&O tax model ordinance.

What are the deadlines for all cities with business licenses to adopt the model?

Cities with a business license must adopt the model by January 1, 2019. However, cities that currently partner with the state’s Business Licensing Service (BLS) for business licensing administration have a deadline of October 17, 2018, because they must provide BLS 75-day notice of any changes to their business licenses (including this mandatory change).

The City is already using the State to administer its business licenses. Thus the deadline is October 17, 2018.

Revisions to the Ruston code.

As the City started reviewing its business licensing code in order to comply with the state-mandated update, it became clear that the City’s code is in need of a major overhaul as it was quite out of date and lacking many procedures (such as revocation and appeal procedures) that are found in most business licensing codes. The City used the Tacoma Business Licensing Code as a model for many of the new chapters. Tacoma’s code, however, has many more additional chapters that were not included in the new ordinances either because Ruston deals with those issue already (i.e. adult entertainment, alarms permits) or because these are things the City has never specifically licensed with special licenses (i.e. food trucks, sign erectors, scrap metal dealers, gambling, septic and side sewer contractors) and thus any of these businesses would be covered under the general business license. The five ordinances addressed in this package of amendments are:

ORD #	Chapter Name/Number	Purpose
1507	Chapter 5.05 – General License Provisions	General provisions for business licensing code
1508	Chapter 5.05A – Annual Business License	Requirements for an annual business license

1509	Chapter 5.05B – Sales – Door-to-Door Soliciting	Sets forth requirements for certain door to door sales
1510	Chapter 5.05C – Temporary Business License – Sales or Shows	Sets forth requirement for occasional or special event business licensing
1511	Chapter 5.05D – Short Term Rental License	Set forth the procedures and requirements for short term rental uses (i.e. AirBnB and the like)

Ordinance No. 1511 is a new type of license to Ruston. At the time the business license code was being re-drafted, the Planning Commission was taking up zoning regulations for short term rentals in the City. Therefore the drafting of the new Chapter 5.05D dovetails nicely timing-wise with the upcoming zoning code change to regulate this use.

Master Fee Resolution # 690.

Updating the licensing code also requires an update to the City’s Master Fee Resolution. The updated business license fees match what the City of Tacoma is charging and are found in Section 4 of the Master Fee Resolution. In addition, an update to the City’s overweight truck regulations in Chapter 16.07 will be forthcoming and these fees are contained in Section 7.

Deadline for adopting updates to business licensing code.

The last Council meeting in which the business license code updates required by the State can be adopted is October 16th as these need to be transmitted to the State no later than October 17th for collection starting on January 1, 2019. All of the new business license ordinances take effect on January 1, 2019.

FISCAL CONSIDERATION

The package of amendments to the business licensing code will result in additional licenses and the related licensing fees as set forth in Section 4 of the draft Master Fee Resolution.

RECOMMENDATION / MOTION

Adopt all business licensing ordinances and the Master Fee Resolution.

MOTION 1: I move to adopt Ordinance #1507 regarding business licensing, repealing and replacing Chapter 5.05 of the Ruston Municipal Code, establishing processes and procedures for business licensing in the City of Ruston.

MOTION 2: I move to adopt Ordinance #1508 regarding business licensing, creating a new Chapter 5.05A of the Ruston Municipal Code, establishing processes and procedures for annual business licensing in the City of Ruston.

MOTION 3: I move to adopt Ordinance #1509 regarding business licensing, creating a new Chapter 5.05B of the Ruston Municipal Code, establishing processes and procedures for business licensing for door to door sales in the City of Ruston.

- MOTION 4: I move to adopt Ordinance #1510 regarding business licensing, creating a new Chapter 5.05C of the Ruston Municipal Code, establishing processes and procedures for business licensing for temporary businesses, such as sales or shows, in the City of Ruston.
- MOTION 5: I move to adopt Ordinance #1511 regarding business licensing, creating a new Chapter 5.05D of the Ruston Municipal Code, establishing processes and procedures for business licensing for short term rentals in the City of Ruston.
- MOTION 6: I move to adopt Resolution #690 establishing fees for city services including certain business license fees, permit fees, electrical installation fees, engineering and plan review fees, and miscellaneous fees, and repealing resolution #664.

ORDINANCE NO. 1511

AN ORDINANCE OF THE CITY OF RUSTON, WASHINGTON, REGARDING BUSINESS LICENSING, CREATING A NEW CHAPTER 5.05D OF THE RUSTON MUNICIPAL CODE, ESTABLISHING PROCESSES AND PROCEDURES FOR BUSINESS LICENSING FOR SHORT TERM RENTALS IN THE CITY OF RUSTON, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the State is requiring all cities with business licenses to make certain updates to its business licensing codes and the deadline for adopting these revisions for Ruston is October 17, 2018; and

WHEREAS, the City deemed it in the best interests to fully update its licensing code, including adoption of several new chapters under subtitle 5.05; and

WHEREAS, the City is also in the process of adopting applicable zoning regulations on locating and operating short term rentals in the City; and

WHEREAS, licensing of short terms rentals also needs to be addressed and this this new Chapter 5.05D accomplishes this goal while being consistent with the proposed new zoning regulations which will be adopted later this year; and

WHEREAS, on August 21, 2018, the City Council held the first reading on this Ordinance; and

WHEREAS, on September 4, 2018, the City Council adopted this Ordinance during its regular meeting at second reading; **NOW, THEREFORE**

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

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

Chapter 5.05D
SHORT TERM RENTAL LICENSE

Sections:

5.05D.010	License required.
5.05D.020	Definitions.
5.05D.030	License fees.
5.05D.040	Exemptions.
5.05D.050	License requirements.
5.05D.060	Record requirements.
5.05D.070	Prohibited use of short term rental accommodation.
5.05D.080	Revocation or suspension.

5.05D.010 License required.

It shall be unlawful for any person, either as owner, lessor, lessee, manager, or agent, to conduct, keep, manage, or operate or cause to be kept, managed or operated, short term rental accommodations in the City without first obtaining a license pursuant to the provisions of this chapter.

5.05D.020 Definitions.

“Adult hotel” means a short term rental accommodation that offers a guest room for rent for any period of time less than 10 hours or allows a person to sub-rent the guest room for a period of time that is less than 10 hours.

“Guest” means any person occupying or registered to occupy a lodging unit at a short term rental accommodation.

“Guest room” means an individual room or group of interconnected rooms intended for sleeping that is for rent or use by a guest, and is individually designated by number, letter, or other means of identification. A guest room may or may not include areas for cooking and eating.

“Short term rental accommodation” or “short term rental” means a single-family residential dwelling unit or accessory dwelling unit used for short-term transient occupancy (for periods less than 30 days). Short term rentals must meet the requirements in Chapter 25.10 RMC in order to obtain a license under this chapter.

5.05D.030 License fees.

The license fees for a short term rental accommodation are established as adopted by resolution of the City Council.

5.05D.040 Exemptions.

This chapter shall not apply to those places where children, elderly persons, invalids, or convalescents are exclusively accommodated, or to those premises licensed as trailer camps or recreational vehicle parks.

5.05D.050 License requirements.

Each licensee of a short term rental in Ruston shall comply with the following:

- a) A short term rental license shall be obtained from the City of Ruston prior to using the dwelling unit as a short-term rental;
- b) The short term rental license shall be renewed annually;
- c) The short term rental license is non-transferable. If the property is sold, the new owner will need to re-apply for both the short term rental license and the underlying short term rental permit;
- d) At the time of initial short term rental license application, the owner of record shall demonstrate that the short term rental is registered as a business with the State of Washington and that a State Business License and Unified Business Identifier (UBI) number have been issued for the short term rental. The owner shall also certify that all applicable lodging taxes will be paid and shall provide proof of general liability insurance for use of the residential structure as a short term rental;
- e) Satisfactory completion of a life/safety inspection performed by the City of Ruston Building Official shall be completed prior to the issuance of the initial license and/or any underlying land use permit;
- f) The owner shall obtain the required land use permit for operating the short term rental under Chapter 25.10 RMC prior to the commencement of operations;
- g) The City of Ruston short term rental license shall be prominently and permanently displayed inside the unit near the front entrance of the short term rental and shall list the following:
 1. The name, address and phone numbers of the property owner or the designated local contact;
 2. The maximum occupancy for the short term rental unit;
 3. Identification and location of parking spaces available;
 4. A statement regarding how the parking standards are to be met;
 5. A statement that occupants are to respect adjoining property owners by adhering to quiet hours from 10 p.m. to 8 a.m., and refrain from trespassing, littering or parking on adjoining properties;
 6. A statement regarding how garbage removal is to be conducted;

7. A statement identifying emergency procedures the occupants are to follow in case of an emergency;
8. A statement that occupants, owners and managers of this short term rental are subject to civil penalties for violating this Ordinance; and
 - a. A statement that the license to operate this short term rental may be revoked for violations of these rules.

5.05D.070 Record requirements.

Every person operating or conducting any short term rental accommodation as defined herein shall at all times keep therein a register system which shall be kept in chronological order by date and include the time the guest checks into and out of the guest room, the name and mailing address of the person renting the guest room, and the names of all other persons occupying the guest room. The owner or operator shall also require valid photo identification for all guests, including those paying in cash, money order, traveler check or personal checks, or by voucher, at the time of registration. Such identification shall be in valid and current form issued by a governmental entity.

The operator of any short term rental accommodation shall keep a permanent record of all reservations made for and on behalf of any guest and a copy of guest photo identification taken at the time of registration. Registration records are to be kept in chronological order by date and retained for a period of three years, and shall be open to inspection at all times by any police officer of the City or the state of Washington or other City official conducting official City business.

5.05D.080 Prohibited use of short term rental accommodation.

No person in charge of any short term rental accommodation, either as owner, agent, manager, clerk, or employee or in any other capacity, shall use, permit, or suffer to be used the short term rental accommodation or any portion thereof for the purpose of an adult hotel; prostitution; the illegal manufacture, possession, sale, distribution, or use of narcotics or dangerous drugs as designated or defined by Chapter 9.21 RMC; or shall permit any fighting, boisterous conduct, or any other disorderly conduct therein.

5.05D.090 Revocation or suspension.

The license granted under this chapter may be suspended or revoked for noncompliance or more than three complaints in any 12-month period under the procedures contained in Chapter 5.05 RMC.

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. Effective Date. This Ordinance take effect on January 1, 2019, which is more than 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 September, 2018.

APPROVED by the Mayor this 4th day of September, 2018.

Bruce Hopkins, Mayor

ATTEST/AUTHENTICATED:

Judy Grams
City Clerk

APPROVED AS TO FORM:



Jennifer S. Robertson
City Attorney's Office

FILED WITH THE CITY CLERK: _____
PASSED BY THE CITY COUNCIL: _____
PUBLISHED: _____
EFFECTIVE DATE: _____
ORDINANCE NO: 1511