

ORDINANCE NO. 1440

AN ORDINANCE OF THE CITY OF RUSTON, AMENDING SECTIONS 25.01.040 AND 25.01.120 OF THE RUSTON MUNICIPAL CODE RELATING TO ZONING AND SUBSTANDARD / NONCONFORMING LOTS IN THE RESIDENTIAL ZONE, AMENDING RMC 25.01.040 TO CLARIFY THAT NEW DEVELOPMENT MUST MEET THE MINIMUM LOT SIZE AND DIMENSIONS AS ESTABLISHED FOR THE RESIDENTIAL ZONE, AMENDING RMC 25.01.120 REGARDING NONCONFORMING LOTS TO RECOGNIZE EXISTING LOT COMBINATIONS AS SINGLE CONFORMING LOTS, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Ruston adopted the minimum residential lot sizes of at least 4,800 square feet with a minimum width of 50 feet for single-family dwellings on June 20, 1997 by Ordinance No. 991; and

WHEREAS, many lots in the City of Ruston are much smaller than this minimum standard lot size; and

WHEREAS, the vast majority of the smaller lots in the residential zone are held with one or more contiguous lots in common ownership and developed as a single parcel which typically consists of two to four of these substandard lots making up a consolidated conforming lot for a single family home; and

WHEREAS, in order to clarify the existing Code which does not allow the development of substandard lots that have been combined to create conforming lots, RMC 25.01.040 and RMC 25.01.120 should be amended; and

WHEREAS, these amendments will increase the clarity of the zoning code and provide ease of reference to applicants; and

WHEREAS, additional housekeeping amendments are also needed to update these sections of the Zoning Code; and

WHEREAS, the City's SEPA Responsible Official issued a Determination of Non-Significance (DNS) on May 21, 2014; and

WHEREAS, in accordance with RCW 36.70A.106, this amending ordinance has been sent to the State Department of Commerce for review on May 21, 2014; and

WHEREAS, the Department had no comments and more than sixty (60) days have passed and now adoption by the City Council is permitted; and

WHEREAS, on May 28, 2014, the Ruston Planning Commission held a public hearing on these revisions; and

WHEREAS, following the public hearing the Planning Commission deliberated on the revisions; and

WHEREAS, after a full deliberation and consideration, the Planning Commission unanimously recommends that the City Council adopt this Ordinance; and

WHEREAS, on July 15, 2014 the City Council held first reading of this Ordinance; and

WHEREAS, on August 5, 2014, the City Council adopted this Ordinance at second reading during its regular meeting; **NOW, THEREFORE**

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

Section 1. Section 25.01.040 of the Ruston Municipal Code is hereby amended to read as follows:

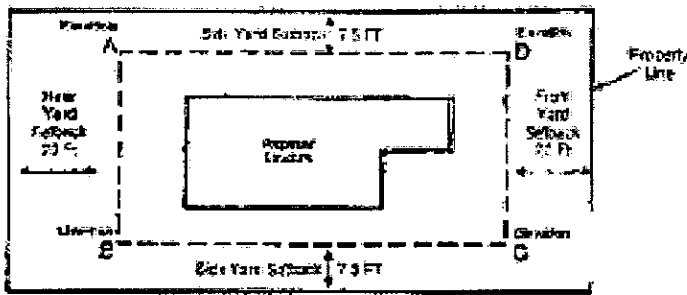
25.01.040 Residential (RES) zone.

- (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.
- (b) Permitted Uses. Refer to RMC 25.07 for uses permitted in the RES zone.
- (c) Conditional Uses. Refer to RMC 25.07 for uses conditionally permitted in the RES zone.
- (d) Minimum Lot Area and Width. Every building erected or structurally altered in the RES zone shall provide a lot area of at least 4,800 square feet with a minimum width of 50 feet for single-family dwellings. No lot which is less than the area and width herein may be developed unless meeting the requirements for a nonconforming lot as set forth in RMC 25.01.120.
- (e) Setback Requirements.
 - (1) 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, seven and one-half feet.
 - (2) Accessory buildings shall meet setback requirements contained in subsection (k) of this section.
- (f) Permitted Height.
 - (1) No structure shall exceed 25 feet in height as measured from the lot grade as defined in Section 25.01.020 (lot grade definition); provided, that if the ridge of the roof runs parallel to the view corridor and a minimum eight-foot (rise)/12-foot (run) roof pitch with no dormers is proposed, permitted height shall be allowed to be no more than 30 feet from the lot grade.
 - (2) Grade elevations by a licensed surveyor showing the lot grade must be provided on a site plan with building permit application (refer to Illustration A).
 - (3) A roof elevation must be provided by a licensed surveyor to the City's Building Official or designated person within five working days after rafters are installed on a new or remodeled structure. This requirement may be waived by written permission of the City's Building Official for structures that are clearly more than 24 inches below maximum permitted height.
 - (4) No accessory building, including detached garages, shall exceed 18 feet in height as measured from the lot grade. For the accessory buildings, lot grade will be determined by the corners of the rear yard building envelope defined in subsection (k) of this section.

The following diagram illustrates subsection (f) of this section:



Illustration—A
DETERMINATION OF LOT GRADE
(PLAN)



Lot Grade Calculations = Elevation of (A+B+C+D)/4
(Elevation of vertices from which to determine average grade)

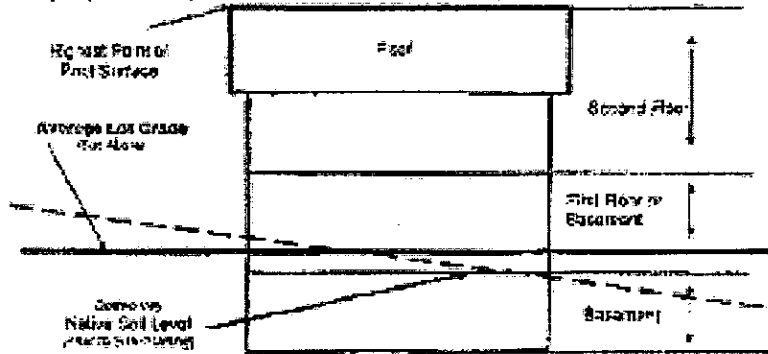
25.01.045 (f) (2) Grade elevations by a Licensed Surveyor, showing the lot grade shall be provided on a site plan with building permit application.

Illustration—B

MEASUREMENT OF HEIGHT FOR PROPOSED STRUCTURES

(ELEVATION)

25.01.045 (h)(1) A Elevation, by a Licensed Surveyor, must be provided to the Town's Building Official or other related person with 5 working days after a license is issued on a new or reworked structure. Note: This map may be waived by written permission of the Town's Building Official.



Not To Scale

Height Measurement Figure

- (g) Lot Coverage. The house and garage and accessory buildings shall not cover more than 38 percent of a lot.

- (h) Site Plan Requirements. Site plan approval is required under Section 25.01.140 of more than four residential units.
- (i) Yard Variation on Corner Properties. The City 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 setback 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 Dwellings Special Permit. New accessory dwellings may be allowed in the residential zone following review and approval by the Planning Commission and City Council if the home is owner occupied and the unit is found to conform with the requirements of this chapter as established by an inspection by the City Building Inspector. Such inspection shall be made by the City upon application to the City Clerk and payment of the applicable fee as provided in the City's fee schedule. If the report of the City Building Inspector finds that the unit meets the requirements of this chapter, a special use permit will be issued by the City Clerk following review and approval by the Planning Commission and City Council. The accessory dwelling shall be considered a legal use only as long as the home is owner occupied.

Conditions which must be met to allow new accessory dwellings:

- (1) A single-family dwelling or lot may have no more than one accessory dwelling.
- (2) The 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 principal structure, or accessory dwelling.
- (3) The principal structure must provide at least three off-street parking spaces which meet the requirements of Section 25.01.090
- (4) The minimum ceiling height must be six feet, eight inches for accessory dwellings located within structures constructed before October 17, 1979, and seven feet, six 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 six feet, six 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, and 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 accessory dwelling unit must provide adequate light and ventilation, sanitation, structural characteristics, heating, electrical service, fire safety and security in accordance with the International Building Code.
 - (A) Parking Requirement Waiver. A waiver from the parking requirement may be granted by the City 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.
 - (B) Design Requirements. The design of an accessory dwelling 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 reasonably feasible, the appearance of the building remains that of a single-family dwelling.
 - (C) 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 City 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 Chapter 25.03 of this code.
- (k) Accessory Structures Allowed Only in Rear Yards. Accessory buildings or dwellings may be built only within a rear yard, subject to the following provisions:
 - (1) Accessory structures may be built within three 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 percent 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 seven and one-half 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.
 - (2) Accessory buildings without a dwelling that are 120 square feet or under may be built only within a rear yard and will not be subject to setback requirements.
- (l) Fences—Height Restrictions. See Section 25.01.101 for further regulations related to rockery/retaining wall height and height of fences on rockeries.
 - (1) Fence in required front yard: 60 inches maximum height.
 - (2) Fence in required side yard: 72 inches, 60 inches within 15 feet of the front property line.

- (3) Fence in required rear yard: 72 inches.
- (4) On corner lots, fences shall be limited to 42 inches in height for a distance of 15 feet from the intersection of the property lines abutting the street and to 60 inches in height for the remainder of the required front yard facing on both streets; except that fences may be permitted to a maximum height of 72 inches from the ground in the front and/or side yard on a flanking street.
- (m) Projections into Yard Setbacks. See Section 25.01.110(d)(3) for allowable projections into yard setbacks.
- (n) Design Standards. All development within the RES zone is subject to the design standards contained within Chapter 25.06 RMC.

Section 2. Section 25.01.120 of the Ruston Municipal Code is hereby amended to read as follows:

25.01.120 Nonconforming buildings, lots of record and uses.

- (a) Nonconforming Buildings and Uses.
 - (1) Nonconforming Buildings. A nonconforming 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 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 International Building Code standards.
 - (2) Nonconforming Uses. Nonconforming uses apply to uses buildings, structures, land, and uses which become nonconforming as a result of this chapter.
- (b) Effect of Removal or Destruction of Nonconforming Buildings or Discontinuance of Nonconforming Use.
 - (1) Nonconforming Buildings. If a nonconforming building is destroyed, removed, or suffers damage of 75 percent or more of its replacement cost in the judgment of the CityTown's Building Official, future uses of the land must conform to this title.
 - (2) Nonconforming Uses. If a nonconforming 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 nonconforming buildings is permitted. A nonconforming building damaged by less than 75 percent of its replacement cost in the judgment of the CityTown'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 CityTown building codes, if restoration is commenced within one year from the damage and completed with reasonable diligence.
- (d) Structural Alteration or Enlargement. Nonconforming 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 nonconforming only because of substandard yards, open spaces, area, or height and the structural alterations and enlargements do not increase the degree of nonconformity.
- (4) Structural alterations which do not increase the floor space are permitted where necessary to adapt a nonconforming 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 building or part thereof declared to be unsafe by order of any ~~City/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 Multifamily Dwellings. Multiple-family dwellings in existence at the time of adoption of the ordinance codified in this chapter 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 nonconforming uses and shall not be deemed nonconforming in terms of use or density provisions of this chapter. 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 chapter~~ on or before June 20, 1997 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 which was~~ erected on any single lot of record as of on or before June 20, 1997 the effective date of the ordinance codified in this

~~chapter, is considered a nonconforming lot, notwithstanding limitations imposed by other provisions of this title. Such nonconforming status will only be recognized for the lot must be if it was in separate ownership and not of continuous frontage with other lots in the same ownership as of June 20, 1997. In such case, the lot will continue to be recognized as a legal building lot unless such nonconforming status is lost in accordance with subsection (g)(2) below.~~ 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 lot is located. In cases where it is not possible to obtain at least 900 square feet of building floor area and 20-foot minimum average building width, required yard setbacks may be reduced equally (on a percentage basis) on all sides, to the point that such area and width is achieved. In no case shall setbacks less than seven and one-half feet be allowed under this provision.

- (2) Combination. In all single-family zoning districts, if two or more lots or combinations of lots and portions of lots with continuous frontage are in single ownership as of June 20, 1997 or any time thereafter are of the effective date of the ordinance codified in this chapter, then the nonconforming lot is to be and shall be deemed to have been combined with such contiguous lot or lots to the extent necessary to create conforming lot and thereafter may only be used in accordance with the provision of the Ruston Zoning 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~~ No parcel or portion of the a parcel shall be used or sold in a manner which violates Title 29 of the Ruston Municipal Code nor 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.

Section 3. 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 4. Publication. This Ordinance shall be published by an approved summary consisting of the title.

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

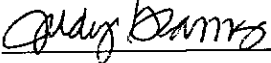
ADOPTED by the City Council of the City of Ruston and attested by the City Clerk in authentication of such passage on this 5th day of August, 2014.

APPROVED by the Mayor this 5th day of August, 2014.



Bruce Hopkins, Mayor

ATTEST/AUTHENTICATED:



Judy Grams, City Clerk

APPROVED AS TO FORM:



Office of the City Attorney

FILED WITH THE CITY CLERK: _____

PASSED BY THE CITY COUNCIL: _____

PUBLISHED: _____

EFFECTIVE DATE: _____

ORDINANCE NO: 1440