

ORDINANCE NO. 1468

AN ORDINANCE OF RUSTON, WASHINGTON, RELATING TO AMENDING SECTION 25.01.110 OF THE RUSTON MUNICIPAL CODE REGARDING THE PROCEDURES FOR CONDITIONAL USE PERMITS AND VARIANCES TO INCORPORATE THE HEARING EXAMINER SYSTEM INTO THIS PROCESS AND AMENDING 25.01.140 OF THE RUSTON MUNICIPAL CODE REGARDING ADMINISTRATION, SITE PLANS, APPEALS AND AMENDMENTS TO MAKE CONSISTENT WITH THE ADOPTION OF THE HEARING EXAMINER SYSTEM AND TO ADD A TIMELY APPLICATION REQUIREMENT FOR OBTAINING EXTENSION OF EXPIRING APPROVALS, AND ESTABLISHING AN EFFECTIVE DATE.

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, by passage of Ordinance Nos. 1453 and 1454, the City Council has adopted revisions to the City Code to utilize the Hearing Examiner for appeal of enforcement procedures under Chapter 12.40 RMC and 25.03 RMC; and

WHEREAS, on September 1, 2015, the City Council updated the permit procedures contained in Chapters 19.01, 19.04, 19.05 and 19.09 of the Ruston Municipal Code by adoption of Ordinance Nos. 1463, 1464, 1465 and 1466; and

WHEREAS, for consistency with these updates, additional revisions to Chapter 25.01 RMC are needed, including Section 25.01.110 and 25.01.140 of the Ruston Municipal Code; and

WHEREAS, in addition, requiring applicants to apply for extension of expiring permits at least 90 days prior to expiration will make expiration dates and permit administration more certain; and

WHEREAS, clean-up amendments should also be made during this update process; and

WHEREAS, the City's SEPA Responsible Official has determined that this Ordinance is exempt from SEPA under WAC 197-11-800(19); and

WHEREAS, the City sent a copy of this Ordinance to the Washington State Department of Commerce on August 28, 2015 as per WAC 365-195-620(1) and RCW 36.70A.106 and more than sixty (60) days have passed and this Ordinance is ready for passage on or before the date set for Second Reading by the Council; and

WHEREAS, on September 23, 2015 a public hearing was held by the Planning Commission on this Ordinance to elicit community input; and

WHEREAS, the Planning Commission found that this Ordinance is consistent with the goals and policies of the City's Comprehensive Plan; and

WHEREAS, the Planning Commission voted to recommend Council approval of this Ordinance; and

WHEREAS, on October 20, 2015, the City Council held the first reading of this Ordinance; and

WHEREAS, on November 3, 2015, 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. Section 25.01.110 of the Ruston Municipal Code is hereby amended to read as follows:

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 this section, 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~~ city staff or Hearing Examiner 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) and Title 19 of the Ruston Municipal Code.
- (3) Decision. A conditional use or variance application included in an application for site plan approval shall be considered together with the site plan.

(b) Conditional Uses.

- (1) 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 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~~ City 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~~ City's Hearing Examiner may grant conditional use permits only if all applicable provisions of this code are fulfilled:

- (A) The proposed use will not be injurious to the neighborhood or otherwise result in substantial or undue adverse economic, aesthetic, or environmental effects on adjacent property.
- (B) 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.
- (C) Adequate access will be available for emergency vehicles.
- (D) Adequate off-street parking will be provided to prevent congestion of public streets.
- (E) 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.
- (F) 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, provided that they conditioned so as to not impose an adverse impact upon the surrounding community. ~~for the zoning district upon approval of a variance.~~
- (G) 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~~ Hearing Examiner shall find that the potential noise, light and glare shall not deter from the surrounding properties in the zoning district.
- (H) Hours of Operation. The hours of operation shall not create intrusive impacts into the neighborhood.
- (1) Landscaping. Landscaping shall be provided in all areas not occupied by buildings or paving. The ~~Planning Commission and Council~~ Hearing Examiner may require exceptional landscaping as a condition.
- (2) 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.

- (i) The declaration shall reference the official files of the ~~Town~~ City through which the permit was granted.
 - (ii) The declaration shall be a covenant running with the land.
 - (iii) No building permit shall be issued unless such declaration is recorded.
 - (iv) No building permit shall be issued for structures other than those specified in the permit.
- (c) **Unclassified Uses.** In creating use classifications, the ~~Town~~ City 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-City~~ 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 Mayor shall ascertain all pertinent facts and make an appropriate recommendation to the ~~Town-City~~ 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 the ordinance codified in this chapter; 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, setback, yard, parking or other dimensional requirements contained in this chapter shall ~~shall~~ may be granted by the ~~Council~~ Hearing Examiner after receiving the recommendation and written findings of fact from the ~~Planning Commission~~ City Staff as ~~described in (d)(6) below~~ if the ~~Council~~ Hearing Examiner finds that the standards in subsection (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
 - (i) 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

- (i) 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~~City'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 24 inches into any required yard setback;
 - (B) Chimneys, flues, and similar fireplace structures so long as they do not extend more than two feet into the side yard setback or three 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 feet into the front or rear yard setback or two feet into a side yard setback;
 - (D) Planting boxes or masonry planters not exceeding 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 Sections 25.01.040 and 25.01.050.
- (5) Variance Subject to Conditions. The ~~Planning Commission or Council~~ Hearing Examiner may grant a variance subject to conditions or safeguards to ensure that the purpose and intent of the ~~Town~~City's Zoning Regulations and Comprehensive Plan will not be violated.
- (6) Report and Recommendation From Mayor. The ~~Planning Director~~planner or other ~~Town~~ City official designated by the Mayor shall prepare a written report and recommendation on the variance application and shall submit such report to the ~~commission~~Hearing Examiner prior to ~~their~~ his or her consideration of the variance application in a public hearing.

Section 2. Section 25.01.140 of the Ruston Municipal Code is hereby amended to read

as follows:

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 City of Ruston Zoning Code and Comprehensive Plan and should be read in conjunction with Title 19 of the Ruston Municipal Code.
- (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. A conditional use permit is also required for the siting of essential public facilities as defined in RCW 36.70A.200.
 - (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. An amendment for any modification to the Comprehensive Plan, Comprehensive Plan map, zoning code, or zoning map must be reviewed through the City'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 chapter.
 - (6) Site Plan Approval. Site plan approval shall be required for all development in every zone within the City limits and shall consist of review of a site plan meeting the requirements of subsection (d)(3) of this section for compliance with the provisions of the zoning code. Site plan approval is an administrative decision requiring review for compliance with adopted codes and other applicable standards.
- (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) Pre-Application ~~liminary~~ 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.~~
 - (2~~3~~) Conditional Use, Unclassified Use, Special Use, Site Plan Approval 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 one inch equals 50 feet, or other appropriate scale as determined by the Mayor or designee, showing:
 - (i) North point; and
 - (ii) Setbacks and heights; and
 - (iii) Proposed lot line adjustments and improvements; and
 - (iv) Boundaries, easements, and ownerships as set forth in the legal description; and
 - (v) Topography at two-foot contour intervals; and
 - (vi) Existing structures and improvements, parking; and
 - (vii) Location of all proposed and existing vegetation including all trees over 10 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
 - (viii) Adjacent streets and rights-of-way; and
 - (ix) The terms, conditions, covenants, and agreements under which the subject property is bound, if any; and
 - (x) An environmental checklist, when required.
- (G) A calculation of the subject property area.
- (H) Statement of compliance with subsections of Section 25.01.110 that apply to the application being submitted.
- (I) Permit and application fees as established by ordinance and recorded in the City's schedule of land use application fees.
- (J) Other information deemed appropriate by the Mayor, Mayor's designee, Hearing Examiner, City Council or Planning Commission, depending on applicable hearing body, including but not limited to:
 - (i) Soils map and general description of soil types and their suitability for the proposed uses.
 - (ii) Landscape and Pedestrian Connectivity plan showing all proposed landscaping, pedestrian routes and paving materials.

- (iii) A calculation of the number of dwelling units (if involving residential), gross floor area (if involving nonresidential) building coverage area, impervious surface area, number of employees (if nonresidential) and parking spaces.
- (iv) Building elevations.
- (v) Grading plan and evidence of compliance with Section 25.01.080
- (vi) Storm drainage plan and evidence of compliance with Section 25.01.080
- (vii) Utilities plan and evidence of compliance with Comprehensive Plan goals, objectives, and policies related to utilities.
- (viii) A draft of any proposed conveyance, conditions, and restrictions related to maintenance of open space and commonly owned improvements.

(34) Amendment Approval Application.

- (A) An application for an amendment to the Comprehensive Plan or zoning code shall contain:
 - (i) A precise statement of the proposed amendment and reasons for proposing.
 - (ii) 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:
 - (i) A complete legal description of the subject property.
 - (ii) The names and addresses of all recorded owners of the subject property.
 - (iii) The names and notarized signatures of record owners of at least 51 percent 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 City Council).
 - (iv) The names and addresses of all record owners of property lying within 300 feet of the exterior boundary of the subject property.
 - (v) Permit and application fees as established by ordinance and recorded in the City's schedule of land use application fees (if application by other than City Council).
 - (vi) Any other information deemed appropriate by the Mayor, Council or Planning Commission.
- (e) Review, Notice, Hearing, and Decisions.
 - (1) The applicable hearing body ~~Mayor, City Council and Planning Commission~~ will hear and review all applications under this chapter pursuant to the procedures in Title 19 of the Ruston Municipal Code.
 - ~~(2) City Council Review and Decision. The City Council shall consider the application in a public meeting within 30 days of receipt of the Planning Commission's recommendation. The City Council shall vote to: (A) approve the application as submitted; (B) approve the application subject to modifications or development~~

~~conditions; (C) disapprove; or (D) 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 City Council's report and decision to the applicant and all parties of record.~~

- (f) 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 City 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: two years;
- (B) Unclassified use: two years;
- (C) Variance: two years;
- (D) Site Plan Approval: two years;

The Mayor may extend an approval or permit if the applicant applies for such extension at least ninety (90) days prior to expiration and 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 issued submitted in writing and submitted to all parties and the City Council.

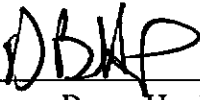
Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

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

Section 5. Effective Date. This Ordinance shall take effect and be in full force and effect five days after publication, as provided by law.

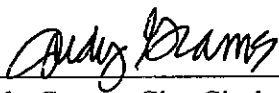
ADOPTED by the City Council of the City of Ruston and attested by the City Clerk in authentication of such passage on this 3rd day of November, 2015.

APPROVED by the Mayor this 3rd day of November, 2015.



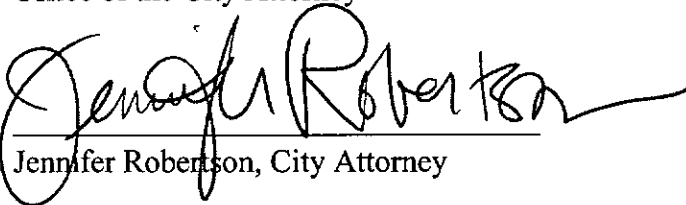
Bruce Hopkins, Mayor

ATTEST/AUTHENTICATED:



Judy Grams, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney



Jennifer Robertson, City Attorney

FILED WITH THE CITY CLERK: _____
PASSED BY THE CITY COUNCIL: _____
PUBLISHED: _____
EFFECTIVE DATE: _____
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