

<p>Subject: Ordinance #1505 – Amending Chapters 25.01 and 25.07 RMC and adding a new Chapter 25.10 RMC – Regulating Short Term Rentals</p> <p>Proposed Council Action:</p> <p>This is on for a study session. This is on for Third Reading and Possible Action.</p>	<p>Dept. Origin: Planning Commission</p> <p>Prepared by: Jennifer Robertson, City Attorney’s Office Rob White, Planning Director</p> <p>For Agenda of: February 5, 2018 – Special Meeting</p> <p>Exhibits: Ordinance #1505 & Map Survey Results to be Provided at the Meeting</p> <p style="text-align: right;">Initial & Date</p> <p>Concurred by Mayor: _____</p> <p>Approved by Planning Director: <u>RW/2-1-2019</u></p> <p>Approved as to form by City Atty: <u>JSR/2-1-2019</u></p> <p>Approved by Finance Director: _____</p> <p>Approved by Department Head: _____</p>
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INFORMATION / BACKGROUND

1. Procedural Background.

There is a growing number of short term rental agencies, such as Air BnB, Booking.com, Vacation Rentals by Owners, and the like which are creating new zoning issues for cities. Some property owners in Ruston would like to use their residential property to allow short term rentals. In other cities that have experienced this growth, the short term rentals have created impacts on surrounding properties that have diminished the quality of life of the resident. Apart from the recently adopted business licensing requirements, the City does not currently have regulations regarding this use. In order to ensure compatibility between a residential property being used as a short term rental and its neighbors, the Planning Commission recommends regulations be adopted to ensure for public safety, health and welfare of these surrounding properties and for any tenants utilizing a short term rental in Ruston.

The Ruston Planning Commission held a public hearing on September 18, 2018. Following the public hearing the Planning Commission voted to recommend the short term rental regulations as contained in Ordinance No. 1505.

The changes to the zoning code as proposed by the Planning Commission are described below.

RMC 25.01.020 – Definitions: Ordinance #1505 amends RMC 25.01.020 to add a definition for “short term rental.”

RMC 25.07.020 – Land Use Matrix: A line is added to the land use matrix for short term rentals reflecting that the use is permitted in the COM and COM-P zones and a conditional use in the residential zones. A footnote #10 is also added to reference the new Chapter 25.10 RMC which sets forth the regulations on short term rentals.

New Chapter 25.010 RMC: A new chapter is added to the Ruston Zoning Code to establish the regulations applicable to short term rentals. These regulations include such items as business licensing requirements, occupancy limits, parking requirements, a limitation of one unit per property, garbage, signage, complaint procedures, and permit revocation procedures.

2. Additional Information Requested by the Council during first reading.

On November 6, 2018, the City Council considered the Planning Commission’s draft Short Term Rental (STR) ordinance and directed staff to complete additional research prior to taking action. Staff proceeded to search several online vacation rental sites such as AirBnb, HomeAway and VRBO, to determine where existing rentals are located in Ruston. Staff also researched existing utility and permit records to determine where existing Accessory Dwelling Units (ADU) exist. This information was then combined onto a single map showing all STR’s (both approved and not approved), and all ADU’s. The results include 31 Accessory Dwelling Units, 5 unapproved Short Term Rentals and 1 approved Short Term Rental unit. In addition, the Council suggested changes to ensure that there are not too many short term rentals opened in Ruston due to the impact on neighbors and on the hotel business. The attached updated ordinance seeks to meet those goals.

3. Revisions to Ordinance #1505 following First Reading.

Staff updated the land use matrix to indicate that STR’s are permitted as a conditional use in the RES, COM and COM-P zones. The earlier version had the STR as outright permitted in commercial zones. The ordinance also updated RMC 25.10.010(j) as follows:

~~**j. One Unit per Property.** On properties containing both a residential dwelling and an accessory residential dwelling, only one residential structure may be rented out as a short term rental, but not both.~~

j. Accessory Dwelling Unit Approval Required. Short Term Rental units may only be permitted within an approved Accessory Dwelling Unit. The property owner must reside on premises and may rent out either the primary

unit or the Accessory Dwelling Unit, but not both. Short Term Rental unit and Accessory Dwelling Unit permit applications may be processed concurrently.

4. Survey Results.

Following second reading, staff put out a survey to the public on this topic. The survey is still open but will close on Monday, February 4th and the results will be shared by the Planning Director at the study session.

5. Revisions to Ordinance #1505 following Second Reading.

The following changes have been made to Ordinance #1505 since Second Reading.

To address the Council's concerns about ensuring that people with STRs on their property are "residing" on the property during the rental, RMC 25.10.010(j) was amended to read:

j. Accessory Dwelling Unit Approval Required. Short Term Rental units may only be permitted ~~within~~ on a property with an approved Accessory Dwelling Unit. The property owner must reside on premises and may rent out either the primary residence or the Accessory Dwelling Unit, but not both. Short Term Rental unit and Accessory Dwelling Unit permit applications may be processed concurrently. For purposes of this chapter, "reside" shall mean that the property owner's permanent residence is at the same address, and the property owner is staying overnight on the premises during all days of each short term rental occupancy period.

DISCUSSION QUESTION: We have had issues raised about whether the added definition of "residing" is protective enough. One suggestion was that the ordinance should require that the property owner be present on the property during the rental period. To that end, Council should discuss whether requiring the owner to be residing on the property during the rental (with overnight on the premises) is adequate protection to ensure the STR does not create problems. Enforcing "presence" would require a definition and direction from council. For example, may the property owner go to work during the day? How about running errands? Enforcing 24/7 "presence" would be difficult. Please provide direction on this topic.

The Council directed that the STR be a conditional use in all zones. This revision was made to the Land Use Matrix chart and to the language in the first paragraph of 25.10.010

Following Second Reading, an issue was raised about the definition of "Short Term Rental" causing some confusion on the part of some Council Members. This has been modified to provide greater clarity as follows:

"Short Term Rental" means a residential dwelling unit used for short-term transient occupancy (for periods less than 30 days). The residential dwelling

unit may be either a single family home or an approved accessory dwelling unit.

5. Additional Questions for Council to Consider.

In addition to considering the proposed revisions, Council should deliberate on the following issues:

- 1) Should STR's be limited to ADU's only, or is it acceptable to allow the primary residence to be rented out, with the owner occupying the ADU instead?

(The ordinance is currently written to allow either the ADU or the main residence to be rented provided the owner occupies one of these.)

MOTION language is listed below if this change is recommended.

(Note, if this change is made, then the definition of "short term rental" also needs to change. This language is included in the motion 2 below.)

- 2) Based on the quantity and location of ADU's shown on the map, does the Council want to limit the total quantity of allowable units? City-wide? By block?

(The ordinance as currently written does not contain this limitation.)

If the Council desires to place number limitations on STRs, it should do so in a way that provided clarity and enforceability. For example, if you wanted to limit these to a certain number per block, you would either want to have a set number (i.e. one per block, with "block" being defined) OR as a number per lot in an area (i.e. no more than one STR per every 20 residential lots with no more than one STR being allowed on any one block). You could also cap the number citywide, but I would recommend spacing so you don't end up with every STR being on the same one or two blocks (i.e. there shall be a maximum of 20 STRs allowed in City limits with no more than one STR being allowed on any one block.) In this case, we would also want to add language for determining the applications which have precedence if we get more than the maximum. Say the cap is 20 and we have 18 but then we get 5 new applications all on the same day. Which 2 applications get approved? (First in time type language.)

If additional changes are needed based on the discussion of the above, Council should provide direction to the staff for such further revisions.

FISCAL CONSIDERATION

No fiscal impact is anticipated from this Ordinance.

RECOMMENDATION / MOTION

This is on for study session to discuss Ordinance 1505. The Council should discuss and direct any revisions. If the Council has no revisions, it may adopt the Ordinance during the regular session at 7 PM. Options for Action are:

1. Adopt Ordinance #1505 (Motion below); or
2. Amend Ordinance #1505 to limit STRs to ADUs only (language below); or
3. Amend Ordinance #1505 in some other manner (i.e. capping the number, etc.); or
4. Do not adopt Ordinance #1505 and provide further direction on revisions to staff.

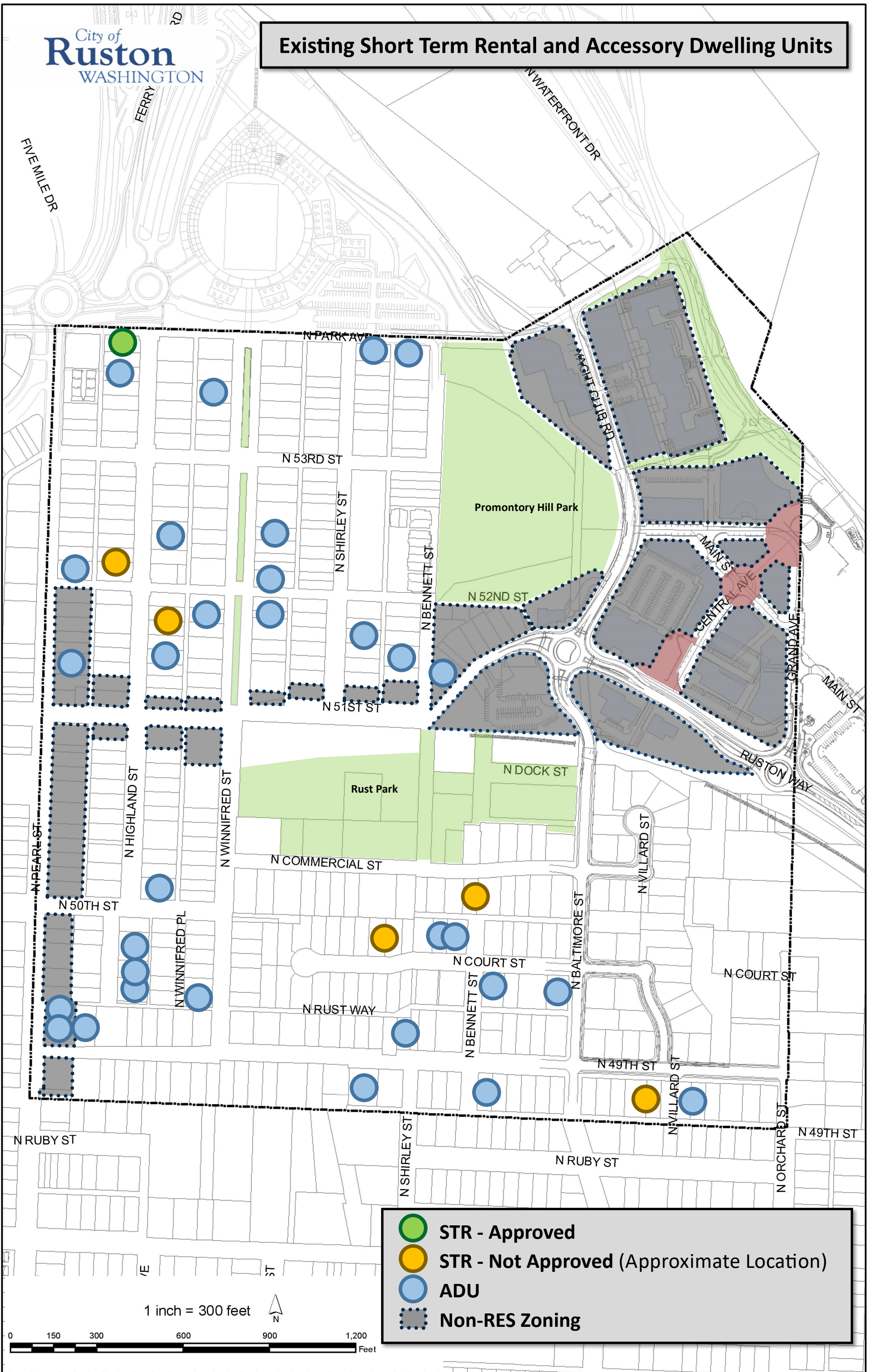
MOTION 1: I move to adopt Ordinance #1505 regarding regulating short term rentals, amending Section 25.01.020 of the City's zoning code to add a definition for "short term rental," amending Section 25.07.020 to update the land use matrix to add "short term rental" to the matrix as a conditional use in the residential and non-residential zones, adding a new Chapter 25.10 entitled "short term rentals" to the Ruston Municipal Code.

If seeking to amend, after Motion 1 is made and seconded then this motion is made:

MOTION 2: I move to amend Ordinance #1505 to make the following changes: (1) the second sentence of RMC 25.10.010(j) is modified to read: The property owner must reside on premises and may rent out only the Accessory Dwelling Unit, but not the primary residence. (2) the second sentence of the definition "Short Term Rental" in section of RMC 25.01.020 should be changed to read, "the residential dwelling unit may only consist of an approved accessory dwelling unit."

If this is passed, then a vote is held on Motion 1.

Existing Short Term Rental and Accessory Dwelling Units



ORDINANCE NO. 1505

AN ORDINANCE OF THE CITY OF RUSTON, WASHINGTON, REGARDING REGULATING SHORT TERM RENTALS, AMENDING SECTION 25.01.020 OF THE CITY'S ZONING CODE TO ADD A DEFINITION FOR "SHORT TERM RENTAL," AMENDING SECTION 25.07.020 TO UPDATE THE LAND USE MATRIX TO ADD "SHORT TERM RENTAL" TO THE MATRIX AS A CONDITIONAL USE IN THE RESIDENTIAL AND NON-RESIDENTIAL ZONES, ADDING A NEW CHAPTER 25.10 ENTITLED "SHORT TERM RENTALS" TO THE RUSTON MUNICIPAL CODE, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, there is a growing number of short term rental agencies, such as Air BnB, Booking.com, Vacation Rentals by Owners, and the like; and

WHEREAS, some property owners in Ruston would like to use their residential property to allow short term rentals in Ruston; and

WHEREAS, in other cities that have experienced this growth, the short term rentals have created impacts on surrounding properties that have diminished the quality of life of the residents; and

WHEREAS, the City does not currently have regulations regarding this use; and

WHEREAS, in order to ensure compatibility between a residential property being used as a short term rental and its neighbors, regulations should be adopted to ensure for public safety, health and welfare of these surrounding properties and for any tenants utilizing a short term rental in Ruston; and

WHEREAS, the City's SEPA Responsible Official issued a Determination of Non-Significance (DNS) on September 17, 2018; and

WHEREAS, in accordance with RCW 36.70A.106, this amending ordinance has been sent to the State Department of Commerce with a request for expedited review on September 17, 2018; and

WHEREAS, the request for expedited review was granted and the required time has passed to allow adoption by the City Council on the date of adoption; and

WHEREAS, on September 18, 2018, the Ruston Planning Commission held a public hearing on these proposed regulations which would modify the City's zoning code; and

WHEREAS, following the public hearing the Planning Commission deliberated on the new zoning code regulations; and

WHEREAS, the Planning Commission recommends the short term rental regulations as contained in Ordinance No. 1505; and

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

WHEREAS, on November 6, 2018, the City Council held the first reading on this Ordinance; and

WHEREAS, during the November 6, 2018 meeting, the City Council asked staff to provide additional information and directed revisions to the Ordinance; and

WHEREAS, on December 18, 2018, the City Council held second reading on this Ordinance and provided additional direction to staff; and

WHEREAS, on February 5, 2019, the City Council held a study session on this Ordinance and then adopted this Ordinance during its regular meeting at third reading; **NOW, THEREFORE**

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

Section 1. A new definition is hereby added to Section 25.01.020 for “Short term rental”

to read as follows:

“Short Term Rental” means a residential dwelling unit used for short-term transient occupancy (for periods less than 30 days). The residential dwelling unit may be either a single family home or an approved accessory dwelling unit.

Section 2. A new line is added to the Land Use Matrix contained in Section 25.07.020 of the Ruston Municipal Code, along with a note number 10, to read as follows:

Uses	RES	COM	COM-P
Short Term Rental	C ¹⁰	C ¹⁰	C ¹⁰

¹⁰Short Term Rental regulations are contained in Chapter 25.10 RMC.

Section 3. A new Chapter 25.10 is hereby added to the Ruston Municipal Code, entitled “Short Term Rentals” to read as follows:

Chapter 25.10 – Short Term Rentals

25.10.010 – Short Term Rentals. Short term rentals are a conditional use in both the Residential and Commercial zones. As part of obtaining a Conditional Use Permit, the owner is required to comply with the following regulations:

a. License Requirement. In addition to the underlying permitting and process requirements, an owner shall obtain an annual revocable short term rental license from the City of Ruston whenever a dwelling unit is to be used for short term rental purposes under Chapter 5.05D of the Ruston Municipal Code. If the terms of the short term rental license are not met, the license may be revoked under the procedures in Title 5 RMC. If the requirements of the short term rental regulations under this chapter are not met, then the property owner may be subject to enforcement, including the imposition of civil penalties under the Ruston’s code enforcement procedures contained in Chapter 25.03 RMC.

b. Occupancy Limits. No more than two overnight occupants per bedroom are allowed, plus two additional overnight occupants, shall be accommodated at any one time, e.g., a one bedroom cabin would be allowed four overnight occupants while a two bedroom cabin would be allowed six total overnight occupants. The total number of occupants temporarily residing in a short term rental shall not exceed 10 at any one time. “Occupants” includes all people over the age of two (2) years.

c. Appearance. The exterior of the building(s) shall retain a residential appearance with house numbers maintained on the front of the building and visible from the street or road. No junk or garbage shall be allowed to accumulate in any yards and all vehicles shall park in designated parking areas.

d. Disturbances. The short term rental shall be operated in a way that will prevent disturbances to neighboring properties which are not typical of a residential neighborhood, including, but not limited to, loud music, loud noises, excessive traffic, loud and uncontrolled parties, junk/debris/garbage accumulation in the yards, trespassing, barking dogs, or excess vehicles, boats or recreational vehicles parked in the streets in front of the unit.

e. Garbage. Provisions shall be made for garbage removal during rental periods, at a minimum Solid Waste collection is required during all months.

f. Pets. Pets shall be secured at all times while on the property. Nuisance barking by pets is prohibited.

g. Phone Service. The vacation rental shall have a “land line” with local phone service. The phone number servicing the short term rental shall be included in the property management plan. A cable or internet based phone line is satisfactory if maintained year round.

h. Parking. The short term rental unit shall comply with the parking requirements of the underlying zone.

i. Signage. One sign meeting the standards for wall mounted home occupations may be permitted in accordance with the Ruston Sign Code, Chapter 25.09 RMC. No off-premise signage of any type is permitted.

j. Accessory Dwelling Unit Approval Required. Short Term Rental units may only be permitted on a property with an approved Accessory Dwelling Unit. The property owner must reside on premises and may rent out either the primary residence or the Accessory Dwelling Unit, but not both. Short Term Rental unit and Accessory Dwelling Unit permit applications may be processed concurrently. For purposes of this chapter, “reside” shall mean that the property owner’s permanent residence is at the same address, and the property owner is staying overnight on the premises during all days of each short term rental occupancy period.

k. Property Management. A property management plan demonstrating how the short term rental will be managed and how impacts to neighboring properties will be minimized and/or mitigated shall be submitted for review and approval as part of the permitting and licensing process. The property management plan which shall include local points of contact available to respond immediately to complaints, clean up garbage, manage unruly tenants, etc., shall be mailed to all adjoining property owners within 300’ as a condition of license approval, and shall be posted in a visible location within the short term rental.

l. Compliance with other codes. The short term rental shall meet the licensing requirements contained in Chapter 5.05D RMC and all applicable State and local health, safety and building codes.

m. Complaints. All complaints shall proceed as follows:

1. The complaining party shall first attempt to communicate with the local contact person designated on the permit and property management plan, describe the problem and leave a contact phone number for call back information;
2. The contact person shall respond promptly to the complaint, regardless of time of day, and make reasonable efforts to remedy any situation that is out of compliance; and
3. If the response is not satisfactory to the complaining party, then the complaining party may next provide a written complaint to the Ruston Code Enforcement Officer, which complaint shall identify and be signed by the complaining party. The complaint shall include a description of the informal attempts to resolve the complaint. A copy of the written complaint shall be provided to the owner and contact person by the City. The Ruston Code Enforcement Officer shall attempt to resolve the complaint. If so required, the owner or local contact person shall provide a written response to the complaint with the anticipated corrective action within 10 days. A copy of the complaint will be filed in the City's short term rental license file.

n. Compliance and Revocation.

1. Owners of short term rentals shall obey all applicable Laws and Ordinances of the City and shall be subject to permit revocation procedures and appeals processes outlined in the Ruston Municipal Code;
2. If there have been three (3) or more violations of this Ordinance related to the same short term rental within one (1) calendar year, or if there have been three (3) or more violations of other City Ordinances related to the same short term rental within one (1) calendar year, the Planning Director shall revoke the short term rental license and underlying short term rental permit, and the property owner shall be prohibited from obtaining a new short term rental permit and license for at least one year from the date of said revocation;
3. The property owner may appeal the revocation of the short term rental license and permit pursuant to the appeals procedures outlined in the Ruston Municipal Code, or any amendment thereto; and
4. Nothing in this subsection precludes the City of Ruston from proceeding with formal enforcement action against a property owner and/or occupants for violations

of this Ordinance or any other provisions of the City Code as authorized under the City's code enforcement procedures.

o. Additional Conditions of Approval. The Planning Director may impose other conditions of approval, such as additional parking, improved access, fencing, landscaping, architectural detailing, open space, or minimum screening to ensure the proposed use is compatible with the surrounding residential neighborhood, provided that said conditions of approval are consistent with goals and policies of the Ruston Comprehensive Plan.

Section 4. 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 5. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 6. 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 ____ day of February, 2019.

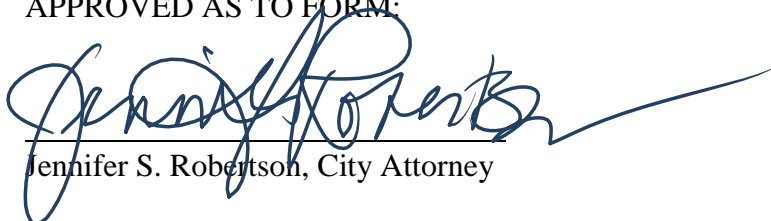
APPROVED by the Mayor this ____ day of February, 2019.

Bruce Hopkins, Mayor

ATTEST/AUTHENTICATED:

Judy Grams, City Clerk

APPROVED AS TO FORM:



Jennifer S. Robertson, City Attorney

FILED WITH THE CITY CLERK: _____
PASSED BY THE CITY COUNCIL: _____
PUBLISHED: _____
EFFECTIVE DATE: _____
ORDINANCE NO: 1505