

**Subject: Ordinance #1551 – Amending
 The Ruston Zoning Code to
 Compliance with ESSHB 1220
 And ESSB 5235**

Proposed Council Action:

This is scheduled for First Reading. Unless Directed otherwise, this matter will return to Council for a Public Hearing and Action on September 7, 2021.

Dept. Origin: City Attorney's Office

Prepared by: Jennifer Robertson
 City Attorney

For Agenda of: August 17, 2021

Exhibits: Ordinance #1551

	Initial & Date
Concurred by Mayor:	_____
Approved/form by City Atty:	<u>JSR/8-6-21</u>
Approved by _____ Director:	_____
Approved by Department Head:	_____

INFORMATION / BACKGROUND

During the 2021 legislative session, the Legislature passed several pieces of legislation regarding housing. Two of these bills require the City to make changes to its zoning code in order to comply with the requirements.

Engrossed Second Substitute House Bill (ESSHB) 1220 and Engrossed Substitute Senate Bill (ESSB) 5235. Both of these bills amended portion of the Growth Management Act (Ch. 36.70A RCW) and Chapter 35A.21 RCW. ESSHB 1220 prohibited any code city from disallowing transitional housing or permanent supportive housing in any zones in which residential dwelling units or hotels are allowed. ESSHB 1220 also provides that code cities shall not prohibit indoor emergency shelters and indoor emergency housing in any zones in which hotels are allowed, except in such cities that have adopted an ordinance authorizing indoor emergency shelters and indoor emergency housing in a majority of zones within a one-mile proximity to transit. ESSB 5235 prohibits limitations of occupancy based on the number of unrelated persons that may occupy a household or dwelling unit.

Although ESSHB 1220 is requiring cities to allow for these uses, the City is permitted to regulate the occupancy, spacing, and intensity of use requirements for these uses. The bill says:

A code city shall not prohibit transitional housing or permanent supportive housing in any zones in which residential dwelling units or hotels are allowed. Effective September 30, 2021, a code city shall not prohibit indoor emergency shelters and indoor emergency housing in any zones in which hotels are allowed, except in such cities that have adopted an ordinance authorizing indoor emergency shelters and indoor emergency housing in a majority of zones within a one-mile proximity to transit. Reasonable occupancy, spacing, and intensity of use requirements may be imposed by ordinance on permanent supportive housing, transitional housing,

indoor emergency housing, and indoor emergency shelters to protect public health and safety. Any such requirements on occupancy, spacing, and intensity of use may not prevent the siting of a sufficient number of permanent supportive housing, transitional housing, indoor emergency housing, or indoor emergency shelters necessary to accommodate each code city's projected need for such housing and shelter under RCW 36.70A.070(2)(a)(ii).

Therefore, in order to comply with ESSHB 1220 and ESSB 5235, the City Attorney recommends the following amendments to the City's zoning code:

1. Amend RMC 25.01.020 (Definitions) to add definitions for Emergency Housing, Emergency Shelter, Permanent Supportive Housing, and Transitional Housing in compliance with ESSHB 1220.
2. Amend RMC 25.01.020 (Definitions) to modify the definition of "Family" to remove any relationship qualifiers (i.e., blood, marriage, adoption). This will bring this definition into compliance with ESSB 5235.
3. Add a new Section 25.01.055 to the RMC to establish occupancy standards for all housing types. These occupancy limitations are based on public health and safety standards and are consistent with the 2021 update to the International Property Maintenance Code, Section 404.
4. Amend Chapter 25.07 RMC (the Land Use Matrix) to:
 - a. Add an exception to 25.07.010(g) for uses mandated under state or federal law. This will help ensure the City's compliance if the Legislature makes another change in the future.
 - b. Add a new "h" to 25.07.010 to clarify that the newly defined uses (emergency housing, emergency shelter, permanent supportive housing, and transitional housing) are allowed as conditional uses in the MDP zone where hotel or motels or multi-family housing (in the case of permanent supportive housing or transitional housing) are allowed under an approved plan.
 - c. Delete hotels and motels as an allowed conditional use in the residential zone since none exist today.
 - d. Make emergency housing or emergency shelters a conditional use in the COM and COM-P zones, subject to occupancy limitations in RMC 25.01.055.
 - e. Make permanent supportive housing and transitional housing a conditional use in all zones, subject to occupancy limitations in RMC 25.01.055.

In order to comply with State law, this ordinance needs to be adopted and take effect no later than September 30, 2021.

RECOMMENDATION / MOTION

None. This is scheduled for First Reading. Unless directed otherwise, this Ordinance will return to Council for a Public Hearing, Second Reading and Action on September 7, 2021.

ORDINANCE NO. 1551

AN ORDINANCE OF THE CITY OF RUSTON, WASHINGTON, REGARDING EMERGENCY HOUSING, EMERGENCY SHELTERS, PERMANENT SUPPORTIVE HOUSING AND TRANSITIONAL HOUSING, TO BRING THE CITY'S ZONING CODE INTO COMPLIANCE WITH ESSHB 1220 AND ESSB 5235, AMENDING SECTION 25.01.020 OF THE RUSTON MUNICIPAL CODE TO ADD DEFINITIONS FOR "EMERGENCY HOUSING", "EMERGENCY SHELTER", "PERMANENT SUPPORTIVE HOUSING" AND "TRANSITIONAL HOUSING", AMENDING THE DEFINITION OF "FAMILY" IN RMC 25.01.020 TO COMPLY WITH ESSB 5325, ADDING A NEW SECTION 25.01.055 TO THE RUSTON MUNICIPAL CODE TO ESTABLISH OCCUPANCY STANDARDS FOR ALL TYPES OF HOUSING, AMENDING CHAPTER 25.07 OF THE RUSTON MUNICIPAL CODE TO ALLOW "EMERGENCY HOUSING" AND "EMERGENCY SHELTER" TO BE CONDITIONAL USES IN THE COM, COM-P AND MDP ZONES, REMOVING HOTELS AND MOTELS AS AN ALLOWED (CONDITIONAL) USE FROM THE RESIDENTIAL ZONE, ADDING "PERMANENT SUPPORTIVE HOUSING" AND "TRANSITIONAL HOUSING" AS CONDITIONAL USES IN THE RES, COM, COM-P AND MPD ZONES; PROVIDING FOR CORRECTIONS, SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, in the 2021 legislative session, the Legislature passed Engrossed Second Substitute House Bill (ESSHB) 1220 which amended portion of the Growth Management Act (Ch. 36.70A RCW) and Chapter 35A.21 RCW; and

WHEREAS, in the 2021 legislative session, the Legislature also passed Engrossed Substitute Senate Bill (ESSB) 5235 which amended portion of the Growth Management Act (Ch. 36.70A RCW) and Chapter 35A.21 RCW; and

WHEREAS, ESSHB 1220 made changes to RCW 35A.21 which will take effect on September 30, 2021, mandating that a code city may not prohibit transitional housing or permanent supportive housing in any zones in which residential dwelling units or hotels are allowed; and

WHEREAS, ESSHB 1220 made changes to RCW 35A.21 which also provides that code

cities shall not prohibit indoor emergency shelters and indoor emergency housing in any zones in which hotels are allowed, except in such cities that have adopted an ordinance authorizing indoor emergency shelters and indoor emergency housing in a majority of zones within a one-mile proximity to transit; and

WHEREAS, ESSB 5235 prohibits limitations of occupancy based on the number of unrelated persons that may occupy a household or dwelling unit; and

WHEREAS, in order to comply with ESSHB 1220, the City Council desires to amend RMC 25.01.020 (Definitions), to add definitions for Emergency Housing, Emergency Shelter, Permanent Supportive Housing, and Transitional Housing to the City's zoning code, and to amend Chapter 25.07 RMC to establish the zones in which such uses are permitted or conditionally permitted, in accordance with the requirements of RCW 35A.21; and

WHEREAS, in order to comply with both ESSB 5235 and ESSHB 1220, the City Council desires to create legal limitations on residential occupancy by adopting a new Section 25.01.055 to the Ruston Municipal Code to provide for health and safety limitations on occupancy applicable to all housing; and

WHEREAS, Ruston has no hotels or motels existing in the residential zone and therefore deems it in the public interest to remove hotels and motels as allowed conditional use from the residential zone; and

WHEREAS, this Ordinance was submitted to the Department of Commerce for 60-day expedited review on _____, 2021; and

WHEREAS, on _____, 2021, the City's SEPA official issued a determination of nonsignificance for the proposed amendments, which was published and provided to the public in accordance with WAC 197-11-510, and there have been no appeals; and

WHEREAS, on _____, 2021, the City issued a Notice of Public Hearing for the proposed zoning code amendments which was published and provided to the public in accordance with Chapter 19.03 RMC; and

WHEREAS, the City Council, having decided to bypass the Planning Commission due to timing constraints, reviewed the proposed amendments contained in this Ordinance during its First Reading on August 17, 2021; and

WHEREAS, the City Council conducted a public hearing on the substance of this Ordinance on September 7, 2021, during Second Reading; and

WHEREAS, the City Council, after careful consideration, finds that this Ordinance is consistent with the City's Comprehensive Plan and development regulations, the Growth Management Act, Chapter 36.70A RCW, and that the amendments herein are in the best interests of the residents of the City and further advance the public health, safety, and welfare; **NOW, THEREFORE,**

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

Section 1. Recitals. The recitals set forth in this ordinance are hereby incorporated as if fully set forth herein.

Section 2. The following four definitions are hereby added to Section 25.01.020 of the Ruston Municipal Code. Each definition shall be placed into the definition section where it fits alphabetically:

“Emergency Housing” means temporary indoor accommodations for individuals or families who are homeless or at imminent risk of becoming homeless that is intended to address the basic health, food, clothing, and personal hygiene needs of individuals or families. Emergency housing may or may not require occupants to enter into a lease or occupancy agreement.

“Emergency Shelter” means a facility that provides a temporary shelter for individuals or families who are currently homeless. Emergency shelter may not require occupants to enter into a lease or an occupancy agreement. Emergency shelter facilities may include day and warming centers that do not provide overnight accommodations.

“Permanent Supportive Housing” means subsidized, leased housing with no limit on length of stay that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and personal behaviors. Permanent supportive housing is paired with on-site or off-site voluntary services designed to support a person living with a complex and disabling behavioral health or physical health condition who was experiencing homelessness or was at imminent risk of homelessness prior to moving into housing to retain their housing and be a successful tenant in a housing arrangement, improve the resident's health status, and connect the resident of the housing with community-based health care, treatment, or employment services. Permanent supportive housing is subject to all of the rights and responsibilities defined in chapter 59.18 RCW.

“Transitional Housing” means a facility that provides housing and supportive services to homeless persons or families for up to two years and that has as its purpose facilitating the movement of homeless persons and families into independent living.

Section 3. The definition of “family” contained within Section 25.01.020 of the Ruston Municipal Code is hereby amended to read as follows:

~~“Family” means one or more persons, either related or unrelated, by blood, marriage, adoption or guardianship, or not more than four persons not so related, except servants occupying a dwelling unit and living together as a single housekeeping unit.~~

Section 4. A new section 25.01.055 is hereby added to the Ruston Municipal Code to read as follows:

25.01.055 Occupancy Standards.

For all housing, including single-family, multi-family, emergency housing, emergency shelters, permanent supportive housing or transitional housing, the dwelling unit or building shall comply with all of the standards for the underlying zone and shall be limited to a maximum occupancy as follows:

- (a) Every living room shall contain not less than 120 square feet (11.2 m²);
- (b) Every bedroom shall contain not less than 70 square feet (6.5 m²) and every bedroom occupied by more than one person shall contain not less than 50 square feet (4.6 m²) of floor area for each occupant thereof.
- (c) Kitchens and non-habitable spaces shall not be used for sleeping purposes.
- (d) The dwelling unit shall not be occupied by more occupants than permitted by the minimum area requirements in Table 1 below:

Minimum Area Requirements

Space	Minimum Area in Square Feet		
	1-2 occupants	3-5 occupants	6 or more occupants
Living room	120 square feet	120 square feet	150 square feet
Dining Room	No requirement	80 square feet	100 square feet
Bedrooms	Shall comply with subsection (b) above.		

Section 5. Section 25.07.010 of the Ruston Municipal Code is hereby amended to read as follows:

25.07.010 Interpretation of land use matrix.

- (a) The land use matrix in this chapter identifies uses permitted in each individual zoning district. The zoning district is located on the vertical column and the use is located on the horizontal row of this matrix.
- (b) If a dash appears in the box at the intersection of the column and the row, the use is not permitted in that district.
- (c) If the letter "P" appears in the box at the intersection of the column and the row, the use is permitted in that district.
- (d) If the letter "C" appears in the box at the intersection of the column and the row, the use is conditionally permitted subject to the conditional use permit review procedures and criteria specified in RMC 25.01.110.
- (e) If a footnote appears in the box at the intersection of the column and the row, the use may be permitted subject to the appropriate review process indicated above and the specific conditions indicated by the corresponding footnote.

- (f) All applicable requirements shall govern a use whether or not they are cross-referenced in the matrix. To determine whether a particular use is allowed in a particular zoning district and location, all relevant regulations must also be consulted in addition to this matrix.
- (g) Any use that is not specifically permitted or conditionally permitted under the Ruston Municipal Code shall be prohibited, unless state or federal law mandates otherwise.
- (h) The Master Planned Development Zone (MDP) requirements are contained in Chapter 25.08 RMC. Uses allowed in the MDP zone are not included in the Land Use Matrix in RMC 25.07.020 as any and all uses which are allowed in a particular MDP zone must be approved as part of the Master Development Plan process. Once a Master Development Plan has been approved, only the land uses contained in the approved Master Development Plan may be located on the property subject to the Master Development Plan. However, for purposes of an approved MDP, transitional housing and permanent supportive housing may be conditionally permitted under a Conditional Use Permit wherever multi-family housing, hotels or motels are allowed in the Master Development Plan. Furthermore, emergency housing and emergency shelters may be conditionally permitted under a Conditional Use Permit wherever hotels or motels are allowed in the Master Development Plan. Emergency housing, emergency shelters, permanent supportive housing, and transitional housing are be subject to all of the development standards in the approved Master Development Plan and are subject to the occupancy limitations contained in RMC 25.01.055.

Section 6. Section 25.07.020 of the Ruston Municipal Code is hereby amended to read as

follows:

25.07.020 Land use matrix.

Uses	RES	COM	COM-P
Dwelling, Accessory	C	P ¹	P ¹
Dwelling, Single-Family	P	P ¹	P ¹
Dwelling, Duplex	C	P ¹	P ¹
Dwelling, Triplex	C	P ¹	P ¹
Dwelling, Multi-Family	C	P ¹	P ¹
Automotive Fuel Dispensing Facility	-	C ²	C ²
Adult Day Care	-	P ⁹	P ⁹
Adult Entertainment Facility	-	-	C ³
Adult Family Home	P	P	P
Airport, Heliport or Airfield	-	-	-
Church	C ⁴	P	P
Commercial Parking Lot	C ⁵	C ⁵	C ⁵
Commercial Child Care	-	P ⁹	P ⁹
Drive-Through Facility	-	C ⁶	C ⁶

<u>Emergency Housing</u>	=	<u>C¹²</u>	<u>C¹²</u>
<u>Emergency Shelter</u>	=	<u>C¹²</u>	<u>C¹²</u>
Family Day Care Home	C	-	-
Government Facilities	C	P	P
Home Occupation	P	P	P
Hospital	-	C	C
Hotel	<u>C¹²</u>	P	P ⁷
Light Industrial	-	C	C
Mobile/Manufactured Home	C	-	-
Mobile Home Park	C	-	-
Motel	<u>C¹²</u>	P	P
Nursing, Convalescent or Retirement Home	-	P ⁸	P
Park	P	P	P
<u>Permanent Supportive Housing</u>	<u>C¹²</u>	<u>C¹²</u>	<u>C¹²</u>
Professional Office	C	P	P
Public and Private Schools	-	P	P
Recreational Facility	-	P	P
Restaurant	-	P	P
Sales Level 1	-	P	P
Sales Level 2	-	-	-
Services Level 1	-	P	P
Services Level 2	-	C	C
Services Level 3	-	-	-
<u>Transitional Housing</u>	<u>C¹²</u>	<u>C¹²</u>	<u>C¹²</u>
Transportation and Utility Facilities	C	C	C
Temporary Encampment	P ¹¹	P ¹¹	P ¹¹
Accessory Uses and Structures	P	P	P
Short Term Rental	C ¹⁰	C ¹⁰	C ¹⁰

¹ Single and multiple-unit dwellings are permitted in the COM and COM-P zones provided that they are located above retail space occupying the entire first floor and have separate, direct access to the sidewalk.

² An automotive fuel facility may not be located closer than 500 feet from another automotive fuel facility.

³ Subject to Chapter 25.05 RMC, Adult Entertainment Facilities.

⁴ Provided that buildings do not cover more than 20 percent of the lot; and no buildings, active play area or parking lot is closer than 20 feet to any residential lot.

⁵ Commercial parking lots are allowed only as an accessory to another permitted or conditional use and must be located below grade.

⁶ Drive-through facilities are not permitted between the front of a structure and any right of way and must have one point of access from an alley.

⁷ Hotels may not have more than 15 rooms.

⁸ Facilities may have no more than 30 beds.

⁹ Facilities may not exceed a maximum occupancy of 50 persons.

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

¹¹ Temporary Encampment regulations and permitting requirements are contained in Chapter 25.11 RMC.

¹² Emergency Housing, Emergency Shelters, Permanent Supportive Housing, and Transitional Housing shall comply with the occupancy and spacing requirements applicable to all housing as set forth in RMC 25.01.055.

Section 7. Corrections. Upon the approval of the city attorney, the city clerk and/or code publisher is authorized to make any necessary technical corrections to this ordinance, including but not limited to the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any reference thereto.

Section 8. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

Section 9. Effective Date. This ordinance shall be published in the official newspaper of the city and shall take full force and effect five (5) days after the date of publication. A summary of this ordinance in the form of the ordinance title may be published in lieu of publishing the ordinance in its entirety.

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 _____, 2021.

APPROVED by the Mayor this ____ day of _____, 2021.

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: 1551