

**Subject: Ordinance No. 1560
 Amending RMC 9.24.010 to
 Allowing longer outdoor
 seating hours for businesses
 in Commercial Zones**

Proposed Council Action:

No action requested. This is on for First Reading. Unless directed otherwise, this will return to Council on September 6, 2022 for Second Reading and Action.

Dept. Origin: Mayor's Office
**Prepared by: Jennifer Robertson,
 City Attorney's Office**
For Agenda of: August 16, 2022
Exhibits: Ordinance #1560

	Initial & Date
Concurred by Mayor:	_____
Approved by City Planner:	_____
Approved as to form by City Atty:	<u>JSR 8-1-2022</u>
Approved by Finance Director:	_____
Approved by Department Head:	_____

INFORMATION / BACKGROUND

Under RMC 9.24.010, the City has long required that businesses with open air seating areas close those areas by 10 PM in order to maintain peace and quiet for neighboring properties and people trying to sleep. The 10 PM ending time is also consistent with the City's noise code (Chapter 9.19 RMC) which requires noise to be reduced by 10 dBAs after 10 PM and requires reduced noise to be both emitted and received by residential properties. See RMC 9.19.050.

During the COVID-19 pandemic, more businesses have opened outdoor seating areas which have been very successful. Ruston is a growing City and there is increasing demand for dining and recreation space, including outdoor seating at businesses. Where a business is located wholly in a commercial zone and not abutting a residential zone, longer outdoor operating hours may be appropriate since louder noise levels are allowed in commercial zones under the City's noise code when nearby properties are also commercial. See RMC 9.19.050. Allowing outdoor seating in commercial areas to remain open longer will enable more people to enjoy an evening out at Ruston businesses. Therefore, it is proposed to modify RMC 9.24.010 to allow properties that are located in a commercial zone and that are not abutting any residential zone to keep the open air seating area open for entry and seating until midnight. However, the City's noise code will still apply, so allowing longer hours of operations will not allow violation of Chapter 9.19 RMC "Public Disturbance Noises."

FISCAL CONSIDERATION

N/A

RECOMMENDATION / MOTION

No action requested. This is on for First Reading. Unless directed otherwise, this will return to Council on September 6, 2022 for Second Reading and Action.

ORDINANCE NO. 1560

AN ORDINANCE OF THE CITY OF RUSTON, WASHINGTON REGARDING OPERATING HOURS FOR OPEN AIR SEATING AREAS, AMENDING SECTION 9.24.010 OF THE RUSTON MUNICIPAL CODE TO ALLOW EXTENDED HOURS FOR BUSINESSES OPERATING IN COMMERCIAL ZONES AND NOT ABUTTING RESIDENTIAL ZONES AND CLARIFYING THAT THE CITY'S NOISE CODE REMAINS APPLICABLE, PROVIDING FOR SEVERABILITY AND CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City has long required that businesses with open air seating areas close those areas by 10 PM in order to maintain peace and quiet for neighboring properties and people trying to sleep (RMC 9.24.010); and

WHEREAS, the 10 PM ending time is consistent with the City's noise code (Chapter 9.19 RMC) which requires noise to be reduced by 10 dBAs after 10 PM and RMC 9.19.050 which requires reduced noise to be both emitted and received by residential properties; and

WHEREAS, during the COVID-19 pandemic, more businesses have opened outdoor seating areas which has been very successful; and

WHEREAS, as a growing City there is increased demand for dining space, including outdoor seating at businesses; and

WHEREAS, where a business is located wholly in a commercial zone and not abutting a residential zone, longer outdoor operating hours may be appropriate since louder noise levels are allowed in commercial zones when nearby properties are also commercial; and

WHEREAS, by allowing outdoor seating in commercial areas to remain open longer, more people can enjoy an evening out at Ruston businesses; and

WHEREAS, the City Council deems it to be in the public interest and welfare to allow longer hours for outdoor seating in the circumstances recited in this ordinance; and

WHEREAS, on August 16, 2022, the City Council held the first reading on this Ordinance;
and

WHEREAS, on September 6, 2022, 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. Findings. The findings and recitals set forth above are hereby adopted and
incorporated herein by this reference.

Section 2. Section 9.24.010 of the Ruston Municipal Code is hereby amended to read as
follows:

**9.24.010 Open Air Seating Hours of Operation Established —
Violation — Penalty.**

(a) It shall be unlawful for any open business that operates an open air seating area to allow any person or persons to enter an open air section for any purpose beyond 10:00 p.m., provided, however, if the business is located in a commercial zone and such business is not abutting any residential zone, then the open air seating area may be open for entry and seating until midnight. Allowing entry or occupation of open air seating after 10:00 p.m., or midnight where applicable, is a violation of this section.

(b) An open air seating area shall include but is not limited to patios with or without seating, gardens with or without seating, and an open air seating section shall include any area that is not fully enclosed by a roof and permanent wall area.

(c) Violation — Civil Infraction. Any person violating this provision shall be cited for violating a Class 2 civil infraction, which is a \$125.00 penalty for every violation. Violations will be processed pursuant to Chapter 9.22.

(d) Noise Code Applies. Nothing in this section permits the violation of the Chapter 9.19 RMC “Public Disturbance Noises”.

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. 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 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 6th day of September, 2022.

APPROVED by the Mayor this 6th day of September, 2022.

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: 8/1/2022

PASSED BY THE CITY COUNCIL: _____

PUBLISHED: _____

EFFECTIVE DATE: _____

ORDINANCE NO: 1560