

ORDINANCE NO. 3747

AN ORDINANCE AMENDING SECTIONS 15.28.100, 15.28.110, AND 15.28.120 OF CHAPTER 15.28 OF THE RAPID CITY MUNICIPAL CODE, RELATING TO THE ENFORCEMENT OF THE SIGN CODE, REMOVAL OF SIGNS, AND DECISIONS OF THE SIGN CODE BOARD OF APPEALS

BE IT ORDAINED by the City of Rapid City that Section 15.28.100 of Chapter 15.28 be and is hereby amended to read as follows:

15.28.100 Enforcement.

The building official may declare any sign unlawful by reasons of inadequate maintenance, improper placement, dilapidation, abandonment, or if erected without a permit or by an unlicensed contractor, or is in violation of any other provision of this code or any other state or federal law. The owner of any unlawful sign or sign structure shall have committed an offense punishable upon conviction by a fine of up to \$100. Each day any violation of this Chapter continues shall constitute a separate offense.

BE IT FURTHER ORDAINED by the City of Rapid City that Section 15.28.110 of Chapter 15.28 be and is hereby amended to read as follows:

15.28.110 Removal of signs.

Upon determining that a sign is unlawful, ~~The building official shall cause to be removed any abandoned or unlawful sign.~~ The building official shall prepare a written notice and order which shall describe the sign and specify the violation involved and shall state that if the sign is not removed or the violation is not corrected within fourteen calendar days, the sign shall be removed in accordance with the provisions of this chapter at cost to the owner of the building, structure, premises or sign.

Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at their address as it appears on the last equalized assessment roll of the county or as known to the building official. If no address of any such person so appears or is known to the building official, then a copy of the notice and order shall be mailed, addressed to such person, at the address of the premises involved in the proceedings. The failure of any such person to receive such notice and order shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on receipt of mailing.

Any person having an interest in the sign or the premises may appeal the determination of the building official, by filing a written notice of appeal to the building official within seven days of

receipt of the notice. Failure by any person to appeal the notice and order within that time period shall constitute a waiver of right to an administrative hearing.

BE IT FURTHER ORDAINED by the City of Rapid City that Section 15.28.120 of Chapter 15.28 be and is hereby amended to read as follows:

15.28.120 Appeals.

- A. There is created a sign code board of appeals to hear and decide appeals and decisions made by the building official.
- B. Members shall be appointed by the mayor and approved by the city council for terms of three years. A total of five members and two alternates shall be appointed to the board from the following groups:
 - 1. One member from the city council;
 - 2. One member from the sign construction industry;
 - 3. One citizen member;
 - 4. One member from the architectural community;
 - 5. One member from the planning commission;
 - 6. Two alternates. If the two appointed alternates are not available for a given meeting, then any member of the city council may serve as an alternate.
- C. A chairman shall be elected annually by the sign code board of appeals. A minimum of three members must be present at a meeting to establish a quorum for voting purposes. A simple majority vote shall be used for voting purposes.
- D. The sign code board of appeals shall adopt rules in accordance with this code. Meetings of the board shall be called by the chairman and/or building official and shall be held at a set time and place. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, indicating if absent or failing to vote, and shall keep records of its examinations and other official actions. A quorum of voting members of the board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance.
- E. Sign appeals may be taken by any person aggrieved or by any officer, department, board, or bureau of the city affected by any decision of the building official. Such appeals shall be taken within thirty days from the date of the decision by filing with the building official a notice of appeal specifying the grounds thereof, and by paying a filing fee of seventy-five dollars at the office of the building official.
- F. The board of appeals shall fix a reasonable time for the hearing of the appeal, giving public notice in the local newspaper seven days prior to the hearing. The appellant shall notify, by certified mail, adjacent premises that an appeal is being made. Such letter shall be provided by the building official.
- G. The board of appeals shall have the following powers:
 - 1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the interpretation or enforcement of this chapter.

2. The board of appeals is empowered to authorize a variance from the strict application of this chapter when:
 - a. There exists exceptional topographic conditions or other extraordinary or exceptional situation or condition of a specific premises not prevalent in the area; and
 - b. Where the strict application of this chapter will result in unnecessary hardship.
 3. Appeals shall not be considered for the following:
 - a. Signs that violate some other law or ordinance regulating signs; and
 - b. Signs as regulated by Section 15.28.150 (Prohibited signs).
- H. Sign appeals approved for off-premises signs shall allow for only one advertising message. Any appeal approved by the sign code board of appeals, subsequent to the adoption of the ordinance codified in this chapter, shall run with the business which shall retain the right to alter the advertising content of the sign. In the event the business relocates or otherwise ceases operation on the premises that was the situs of the appeal, or if the Standard Industrial Classification (SIC) of the business is changed by two numeric designations, the rights granted under the appeal shall be extinguished.
- I. The decision of the sign code board of appeals shall be final and binding upon the City. No appeal shall be had to the City Council.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(SEAL)

First Reading:
 Second Reading:
 Published:
 Effective: