

ORDINANCE NO. 3813

AN ORDINANCE REVISING THE REGULATION OF SIGNS WITHIN THE CITY OF RAPID CITY BY AMENDING CHAPTER 15.28 OF THE RAPID CITY MUNICIPAL CODE.

WHEREAS, the City of Rapid City finds that the scenic beauty of the City is an invaluable asset to the City; and

WHEREAS, the City of Rapid City finds that adverse effects on the scenic beauty of the City of Rapid City have a direct adverse effect on the City and its citizens and visitors; and

WHEREAS, the City of Rapid City finds that off premise signs adversely effect the scenic beauty of the City; and

WHEREAS, the City of Rapid City finds that off premise signs have proliferated within the city limits and has expanded to new areas; and

WHEREAS, the City of Rapid City finds that off premises signs and specifically billboards are lawful in the State of South Dakota; and

WHEREAS, the City of Rapid City finds that it has authority pursuant to SDCL § 9-30-2 and SDCL § 9-30-3 and SDCL § 9-30-4 to regulate signs within the City limits; and

WHEREAS, the City of Rapid City finds that off premises signs tend to annoy persons frequenting public streets; and

WHEREAS, the City of Rapid City finds that the regulation of off premises signs is essential to effective traffic regulation; and

WHEREAS, the City of Rapid City finds that the height of off premise signs adversely effects the scenic beauty of the City; and

WHEREAS, the City of Rapid City finds that the height of off premise signs adversely effects the health, welfare, and safety of the users of public streets within the City; and

WHEREAS, the City of Rapid City finds that the size of off premise signs adversely effects the scenic beauty of the City; and

WHEREAS, the City of Rapid City finds that the size of off premise signs adversely effects the health, welfare, and safety of the users of public streets within the City; and

WHEREAS, the City of Rapid City finds that the placement of off premises signs in close proximity to each other adversely effects the scenic beauty of the City; and

WHEREAS, the City of Rapid City finds that the placement of off premise signs in close proximity to each other adversely effects the health, welfare, and safety of the users of public streets within the City; and

WHEREAS, the City of Rapid City finds that off premise signs are detrimental to the health, safety, and welfare of the users of public streets in the City of Rapid City; and

WHEREAS, the City of Rapid City finds that the reasonable regulation of the placement, size and spacing of off premise signs is necessary to protect the scenic beauty of the City; and

WHEREAS, the City of Rapid City finds that that the reasonable regulation of the placement, size and spacing of off premise signs is necessary to protect the health, welfare and safety of the users of public streets within the City limits; and

WHEREAS, the City of Rapid City finds that previous regulations adopted by the City have proven to be inadequate to protect the scenic beauty of the city and the Black Hills; and

WHEREAS, the City of Rapid City finds that previous regulations adopted by the City are inadequate to protect the safety and welfare of users of public roads; and

WHEREAS, the City of Rapid City acknowledges that businesses have invested money in off premises signs under prior regulations; and

WHEREAS, the City of Rapid City finds that most currently existing off premises signs and structures are not in compliance with the regulations imposed by this ordinance; and

WHEREAS, the City of Rapid City finds that many currently existing off premises signs detrimental to the scenic beauty of the City and the Black Hills; and

WHEREAS, the City of Rapid City finds that many currently existing off premises signs are detrimental to the health, safety, and welfare of the users of the public streets within the City limits; and

WHEREAS, the City of Rapid City finds that the protection of the scenic beauty of the City and the Black Hills requires that existing signs conform to these regulations; and

WHEREAS, the City of Rapid City finds that the protection of the health, safety, and welfare of the users of public streets requires that existing signs conform to these regulations; and

WHEREAS, the City of Rapid City finds that the owners of currently existing, lawfully erected off premises signs are entitled to a reasonable period of time to recoup the capital that has been lawfully invested; and

WHEREAS, the City of Rapid City finds that off premises advertising with faces larger than 378 square feet are the most damaging to scenic beauty and the most dangerous to users of public streets. The City of Rapid City also finds these signs are nonconforming under the current ordinance; and

WHEREAS, the City of Rapid City finds that five years is a reasonable amount of time to allow the owners of currently existing, nonconforming, lawfully erected signs to recover their capital investment; and

WHEREAS, the City of Rapid City finds that off premises advertising with faces greater than 250 square feet but not more than 378 square feet are damaging to scenic beauty and dangerous to users of public streets. The City of Rapid City also finds these off premises advertising structures conform to the most recent city ordinance regulating off premises signs; and

WHEREAS, the City of Rapid City finds that ten years is a reasonable amount of time to allow the owners of currently existing, conforming, lawfully erected off premises signs to recover their capital investment; and

WHEREAS the City of Rapid City finds that off premise signs currently located outside of the City limits that are subsequently annexed into the City must conform to the regulations of this ordinance within a like amount of time as off premises signs currently in the City; and

WHEREAS, the City of Rapid City finds that the enforcement of regulations pertaining to off premise signs requires a significant amount of staff time; and

WHEREAS the City of Rapid City finds that the cost of enforcing the regulations should be bourn by the industry and that it is necessary to establish a method for monitoring compliance with the regulations imposed by this ordinance; and

WHEREAS the City of Rapid City finds that the most efficient method to fund the enforcement of these regulations and ensure compliance is to establish an annual license for each off premise sign; and

WHEREAS the City of Rapid City finds that it is reasonable, in light of the proliferation of off premise signs and the cost of advertising on off premise signs to charge a reasonable yearly fee for an off premise sign license; and

WHEREAS the City of Rapid City finds that the ability to enforce these regulations is essential to its purpose and that the ability to remove signs that have been abandoned, damaged, fallen into disrepair is essential to enforcement; and

WHEREAS the City of Rapid City finds that off premise signs which lack an advertising message are especially harmful to the scenic beauty of the City and the Black Hills and are especially distracting to drivers and endanger the safety, health, and welfare of users of public streets; and

WHEREAS the City of Rapid City finds that off premise signs that lack an advertising message require strict enforcement efforts on the part of the City to ensure the scenic beauty of the City and Black Hills and the safety of users of the public streets; and

WHEREAS the City of Rapid City finds that the lack of an advertising message is an easily correctable defect, the City finds that the failure to correct this defect is tantamount to abandoning the sign and therefore it is reasonable to order the removal of such signs; and

WHEREAS the City of Rapid City finds the number of off premise signs is a major cause of the decay in scenic beauty of the City and the Black Hills and contributes to the endangerment of users of the public streets; and

WHEREAS the City of Rapid City finds it necessary to restrict the number of off premise signs located within the City limits in order to protect the scenic beauty of the City and the Black Hills and to protect the safety, health and welfare of the users of public streets; and

WHEREAS the City of Rapid City finds that the removal of existing off premise signs will alleviate the current congestion and the replacement non conforming off premise signs with conforming off premise signs is desirable; and

WHEREAS the City of Rapid City finds that requiring the removal of an existing sign prior to the erection of a new off premises sign is the most logical method to facilitate those goals; and

WHEREAS the City of Rapid City finds that the removal of a nonconforming off premise sign is more protective of the scenic beauty of the City and Black Hills and the safety of the users of public streets than the removal of a conforming sign; and

WHEREAS the City of Rapid City finds that under this scheme, the right to erect a new off premises sign will be a valuable property right; and

WHEREAS the City of Rapid City finds that the protection of the public safety, health and welfare requires off premises signs to be built and maintained in accordance with all nationally recognized codes adopted by the City and to be inspected as required therein; and

WHEREAS the City of Rapid City determines that the provisions of the prior code relating to on premises signs should be continued in this code for the protection of the scenic beauty of the City and the Black Hills and the protection of the safety, health and welfare of the users of public streets; and

WHEREAS the City of Rapid City finds historic signs are an important asset to the City; and

WHEREAS the City of Rapid City finds that these regulations are reasonable and necessary for the protection of the City and the users of the public streets, and that they are the least restrictive means to provide the necessary protection;

NOW, THEREFORE, BE IT ORDAINED that Chapter 15.28 of the Rapid City Municipal Code is hereby repealed in its entirety; and

BE IT FURTHER ORDAINED that Chapter 15.28 of the Rapid City Municipal Code is enacted as follows:

15.28.010 Definitions.

"Abandoned sign" means an on-premises or off-premises sign which meets one or more of the following:

1. No longer correctly directs or exhorts any person, advertises a bona fide business, lessor, owner, product or activity conducted or product available on or off the premises where such a sign is displayed;
2. The business it advertises has discontinued business in the city of Rapid City;
3. Any sign declared unlawful by the building official;
4. Any sign not properly maintained or which no longer displays a message.

"Advertising message" means that copy on a sign describing products or services being offered.

"Animated sign" means any sign which includes action, motion, noise, dust, blast, or vibration. For purposes of this code, this item does not refer to flashing, electronic message center signs or indexing, all of which are separately defined.

"Awning" means a shelter supported entirely from the exterior wall of a building. (See Uniform Building Code for construction, projection and clearances).

"Awning sign" means any sign attached to or constructed on an awning.

"Banner" means a sign composed of lightweight material either enclosed or not enclosed in a rigid frame, secured or mounted so as to allow movement of the sign caused by movement of the atmosphere.

"Building face or wall" means all window and wall area of a building in one plane or elevation.

"Building official" means the officer or other designated authority charged with the administration and enforcement of this code, as adopted by the city.

Canopy. See "awning."

"Changeable copy sign (manual)" means a sign on which copy is changed manually in the field. "City" means the city of Rapid City.

"City council" means the city council of Rapid City.

"Copy" means the message on a sign surface either in permanent, temporary or removable form.

"County" means Pennington County, South Dakota.

"Directional sign" means any sign which serves solely to designate the location or direction to a place or area.

"Display surface" means the area made available by the sign structure for the purpose of displaying the advertising message.

"Earth tone" means color such as tan or light brown, specifically Martin Senour Homestead Hearth 304-3 or Iowa Paints 8725A Coach House, or an equivalent approved by the building official.

"Electrical sign" means a fixed, stationary, or portable self-contained, electrically illuminated utilization equipment with words or symbols designed to convey a message.

"Electronic message center" means a sign such as an electronically or electrically controlled sign which must provide public service time and temperature information, and may display other public service information or advertising messages.

"Erected" means attached, altered, built, constructed, reconstructed, enlarged or moved, and shall include the painting of wall signs, but does not include copy changes on any sign.

"Exempt sign" means a sign for which a **sign building** permit is not required.

"Flag" means a piece of cloth or other similar material, usually rectangular, of distinctive color and design which is used as a symbol, a standard, a signal, or an emblem.

"Flashing sign" means any sign which contains an intermittent or flashing light source, or which includes the illusion of intermittent or flashing light by means or animation, or an externally mounted intermittent light source. See "electronic message center" and "indexing signs."

"Frontage" means the length of the front property line or lines of any premise, which is/are parallel to and along each street right-of-way it borders.

"Ground sign" means a sign erected on a foundation, free-standing frame, mast or pole and not attached to any building.

"Height of sign" means the vertical distance from the top of the sign or sign structure, whichever is greater, to the ground directly below, measured from a point equal distance from the sides or edges of the sign.

"Illuminated sign" means any sign which emanates light either by means of exposed tubing or lamps on its surface, or by means of illumination transmitted through the sign faces.

"Indexing signs" means turning and stopping action of the vertical sections of a multi-face sign capable of showing more than one message in the same area.

"Lawful nonconforming sign" means a sign or sign structure existing at the time of enactment of this code which does not comply with all provisions of this code, but which was legally constructed prior to adoption of this code.

"Lot" means a parcel of land which is or may be occupied by a building, group of buildings, their accessory buildings, signs, or uses customarily incidental thereto, together with such yards or open spaces within the lot lines.

"Maintain" means to allow a sign to exist or remain, or to repair or refurbish a sign in order to prevent decay or deterioration.

"Marquee" means a permanent roofed structure attached to and supported by the building and projecting over public property. See the Uniform Building Code for projection, construction, clearance, length, thickness and prohibited locations.

"Marquee sign" means any sign attached to or constructed in or on a marquee.

"Message" means a communication through written words, symbols, signals, or pictures.

"On-premises sign" means any sign identifying or advertising a business, person, activity, goods, products or services which are located on the premises where the sign is installed and maintained.

"Off-premises sign" means any sign identifying or advertising a business, person, activity, goods, products or services located off the premises from where the business, person/activity, goods, products., or services are located.

"Original town" means Blocks 71-76, 81-86, 91-96, 101-106 and 111-116 of the original town plat of Rapid City.

"Outline lighting" means an arrangement of incandescent lamps or electric-discharge lighting to outline or call attention to certain features such as the shape of a building or the decoration of a window.

"Owner" means any person(s), agent(s), firm(s) or corporation(s) having a legal or equitable interest in the property or premises.

"Parapet or parapet wall" means that portion of a building wall that rises above the roof level.

"Pedestrian signs" means a sign that advertises to pedestrian traffic as regulated by Section 15.28.210.

"Person" means a person, heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, or their successors or assigns, or the agent of any of the aforesaid.

"Premises" means a tract of land regarded as the smallest conveyable unit of real estate.

"Projecting signs" means a sign other than a wall sign which is attached to and projects from a building, structure, or building face.

Public Service Information Sign. See "changeable copy sign (manual)."

"Real estate or property for sale, rent or lease sign" means any sign pertaining to the sale, lease or rental of land or buildings.

"Roof line" means the top edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette.

"Roof sign" means any sign erected upon, against or directly above a roof or on top of or above the parapet of a building, **including any sign or any portion of a sign that extends over the roof of any structure.**

"Rotating sign" means any sign or portion of a sign which moves in a revolving or similar manner.

"Sign" means any identification, description, illustration or device illuminated or nonilluminated, which is visible from any public place or is located on private property and exposed to the public, and which directs attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or situated merchandise, or any emblem, painting, banner, pennant, placard or temporary sign designed to advertise, identify or convey information, with the exception of window displays and sign structures; however, for the purpose of removal, signs shall also include all sign structures.

"Sign area" means the total area or areas of all signs within the outer edges of the sign or advertising message.

"Sign structure" means any structure which supports, has supported, or is capable of supporting a sign, including decorative cover.

"Street" means a public or private thoroughfare which affords the principal means of access to abutting property.

“Structural alteration or structural change” means any change, modification or other alteration whatsoever except changing the advertising message on a sign, painting the sign or changing light bulbs on a sign.

"Temporary sign" means a sign which is not permanently affixed.

"Use" means the specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained.

"Unlawful sign" means a sign or sign structure which is unlawfully erected or is unlawful for reasons of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage, or abandonment as declared by the building official.

"Wall" means any wall or element of a wall, or any member or group of members which defines the exterior boundaries or courts of a building and which has a slope of sixty degrees or greater with the horizontal plane.

"Wall sign" means a sign painted directly on the surface of a building, fence, awning or marquee; or a sign attached to or erected against the wall of a building, fence, awning or marquee, with the face in a parallel plane to the plane of the building wall.

15.28.020 Administration.

A. The building official is authorized and directed to enforce all the provisions of this code. For such purposes, the building official shall have the powers of a law enforcement officer.

B. The building official shall have the power to render interpretations of this code and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformance with the intent and purpose of this code.

C. The building official may deputize inspectors or employees as may be necessary to carry out the functions of the code enforcement agency.

D. When it is necessary to make an inspection to enforce the provisions of this code, or when the building official has reasonable cause to believe that there exists a sign or a condition which is contrary to, or in violation of this code, the building official may enter the premises at reasonable times to inspect or to perform duties imposed by this code, provided credentials be presented to the occupant and entry requested, if premises are occupied. If premises are unoccupied, the building

official shall make a reasonable effort to locate the owner or other person having charge or control of the premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

E. Whenever such work is being done in contrary to the provisions of this code, or other pertinent laws or ordinances implemented through the enforcement of this code, the building official may order the work stopped by notice in writing served on any persons engaged in doing or causing such work to be done. Work must then be stopped until otherwise authorized by the building official.

F. This code shall not be construed to relieve from or lessen the responsibility to any person owning, operating or controlling any sign or sign structure for any damages to persons or property caused by defects, nor shall the city be held as assuming any such liability by reason of the inspections authorized by this code or any permits issued under this code.

G. All provisions of the laws and ordinances of the city and the state shall be complied with, whether specified herein or not. In the event that portions of this chapter conflict with other portions, or portions of this chapter conflict with state or federal law, the more restrictive requirement shall apply. In addition, compliance with this code does not presume to give authority to violate, cancel or set aside any of the provisions of the building code, municipal code, or other local law, or ordinance regulating construction or the performance of construction in the city.

15.28.030 Enforcement.

The building official may declare any sign unlawful by reasons of inadequate maintenance, improper placement, dilapidation, abandonment, or if erected without a **sign building** 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.

15.28.040 Removal of signs.

A. Upon determining that a sign is unlawful, 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.

B. 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.

C. 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.

15.28.050 Prohibited signs.

The following types of signs are expressly prohibited, except as otherwise provided by this code:

A. Animated, flashing, blinking, traveling lights or any other such lighting not providing constant illumination, except ~~changing signs~~ **changeable copy signs**;

B. Any sign or portion of a sign which moves or assumes any motion constituting a nonstationary position, except barber poles and signs attached to or placed upon a motor vehicle;

C. Abandoned signs or unlawful signs;

D. Any vehicle or trailer parking on public right-of-way, public property or private property so as to be visible from the public right-of-way and which conveys an advertising message. However, this prohibition shall not include trailer-mounted signs when the gross weight of the sign and the trailer is less than one thousand pounds;

E. Signs displaying an advertising message and signs prohibited by Section 12.20.030 of this code and located in the public right-of-way;

F. Banners, pennants, search lights, streamer, twirling signs, sandwich board signs, sidewalk or curb signs, balloons, air and gas-filled figures shall not be used except when permitted for the opening of a new business, not to exceed fifteen days;

G. Flags displaying an advertising message, except flags of any nation, state, political subdivision, or corporate flag;

H. Projecting signs, except pedestrian-oriented signs that do not exceed eight square feet;

I. Off-premises roof signs;

J. On-premises roof signs;

K. Off-premises signs located in the original town, a residential district or within fifty **five hundred (500)** feet of a **church, synagogue or other organization recognized as a bona fide religious organization and exempt under 26 USC § 501(C)(3),** or a residential district **or any land zoned as a Public under Title 17 of this code;**

L. Signs advertising words or pictures of obscene or pornographic material, signs that emit sound, odor, visible matter or which are similar to traffic control signs or signals and which advertise words such as "Stop," "Go," "Danger," "Warning"; or signs that obstruct the vision of traffic control signs or signals or lights in the public right-of-way;

M. Off-premises sign constructed with more than one display surface per side;

N. Off-premises sign in a ~~position or shape~~ **other than square or rectangle** horizontal whose width is greater than its height **or that have any part of the sign extending beyond the borders of the square or rectangle;**

O. Off-premises ground signs with faces constructed at any angle greater than ~~forty five~~ **twenty degrees.** (Ord. 3595 (part), 2000: Ord. 3594 (part), 2000)

P. **Off-premises signs with a face width greater than thirty (30) feet or a face height greater than fifteen (15) feet.**

Q. **No on premises signs shall be converted to an off premises sign, unless all of the requirements of this code are satisfied.**

15.28.060 Off Premises Sign Licenses

A. **Every off-premises sign shall have an off premise sign license issued by the Building Official. The fee for each off premises sign license shall be one hundred dollars. No more than one license shall be required per structure.**

B. **Off-premises sign licenses expire on December 31 of the year in which the license is purchased.**

C. **Any off-premises sign that does not have an off-premises sign license by the tenth day of January of any year is a prohibited sign as defined under this code and is subject to removal under the provisions of section 15.28.110.**

D. **No off premises sign license shall be issued for a new off premises sign unless the owner or lessee of the land, where the off-premises sign is proposed to be located, shall surrender to the Building Official two Off Premise Sign Credits, issued under section 15.28.250 of this code, for each new sign**

structure. If the two Off Premise Sign Credits presented to the Building Official allow for signs with faces of different square footages, the License shall allow construction of a new sign with faces not larger than the square footage allowed by the larger of the two Off Premise Sign Credits.

E. All funds paid to the City pursuant to this section shall be deposited in a separate fund designated the Sign Code Enforcement Fund. The Building Official shall use the funds in this account to enforce the provisions of chapter 15.28 of the Rapid City Municipal Code.

F. No sign shall be deemed unlawful for being unlicensed under this section until ninety days after the enactment of this ordinance. The cost of a license for the year 2002 shall be fifty dollars. Any off premise sign that is not licensed within ninety days of enactment of this ordinance is a prohibited sign subject to removal under the provisions of section 15.28.040 of this code.

15.28.070 License required.

No person shall engage in the business of constructing signs without obtaining a contractor license pursuant to the city municipal code.

15.28.080 **Sign Building** Permits.

A. Sign Building Permits

1. Except as otherwise provided in this code, it shall be unlawful for any person to erect, construct, enlarge, move or convert any sign in the city, or cause the same to be done without first obtaining a sign building permit for each such sign from the building official as required by this code.

2. Every sign building permit issued by the building official shall expire by limitation and become null and void if the construction does not commence within sixty days from date of permit, and shall expire by limitation in one hundred twenty days from the date of permit. For good cause, the building official may extend the time limitations for another one hundred twenty days. Any extension granted shall be accompanied by a fee equal to one-half of the original permit fee paid to the city. (Ord. 3595 (part), 2000; Ord. 3594 (part), 2000)

3. No new off premise sign shall be permitted unless the applicant has first obtained an off premise sign license as required by section 15.28.045 of this code.

B. Exemptions

The following types of signs and activities are exempt from the provisions 15.28.040(A):

1. Changing of the advertising copy or message, the painting, maintenance and or repair of an existing lawful sign so long as structural changes are not made and except when:

a. The use of the premises changes from one Standard Industrial Classification (SIC) two-digit code to another, and/or

b. Signs placed in a designated National Register Historic District or on a designated National Register building or structure,

c. ~~The change of an off-premises to an on-premises sign or from an on-premises to an off-premises sign. However, within 10 days of the change from an on-premises to an off-premises sign an annual permit under 15.28.040 must be secured.~~

2. Construction signs: One sign shall be allowed per lot. The sign shall not exceed thirty two (32) square feet in area and shall not be erected until a building permit has been issued. The sign shall be removed within fourteen (14) days after the issuance of a certificate of occupancy;

3. Directional signs located entirely on the premises that do not exceed five square feet in area;

4. Corporate flags or emblems limited to a maximum of one per premises;

5. Flags of any nation or political subdivision with a maximum number of one flag type per premises, per street frontage;

6. Traffic control devices and signs as regulated by Chapter 10.28, Traffic Control Devices, of this code;

7. Signs located within the interior of any building, or within any enclosed lobby or court of any building, or signs located within the inner or outer lobby, court or entrance of any theater, or within any sports field or stadium, provided such signs are not intended or designed to be viewed from any public property or to other adjacent property. Determination of intent and design shall be based upon the size, location, orientation and legibility of such signs and whether they are reasonably suited to convey a message to patrons of the property upon which they are located rather than to persons viewing the sign from any public property or from adjoining property, and the extent to which reasonable measures have been taken to limit the conveying of a message to persons viewing the sign from any public property or from adjoining property. Specifically, design and intent shall be determined by a good faith standard and with an intent that this exemption shall not be used as a subterfuge to allow off-premises advertising under a pretext of conveying a message to patrons of the premises upon which such sign is located. Nothing herein shall be construed as exempting such signs from any other provision of this code or any other ordinance, law, rule or regulation;

8. "No trespassing" or "no dumping" signs;

9. Plaques or name plate signs not more than two square feet in area which are fastened directly to the building and which do not contain an advertising message;

10. Signs required or specifically authorized for a public purpose by any law, statute or ordinance; which may be of any type, number, area, height above grade, location, illumination, or animation, required by law, statute or ordinance under which the signs are erected. In no event, however, shall such sign or part thereof contain an advertising message;

11. Real Estate Signs, subject to the following restrictions:

a. Residentially Zoned Lots Or Parcels:

(1) Less Than One Acre: One sign per street frontage not to exceed six (6) square feet per sign.

(2) At Least One Acre But Not Greater Than Five Acres: One sign per street frontage not to exceed thirty two (32) square feet per sign.

(3) Greater Than Five Acres But Less Than Ten Acres: Two (2) signs not to exceed thirty two (32) square feet per sign, or one sign not to exceed sixty four (64) square feet.

(4) Ten Acres Or More: Three (3) signs not to exceed thirty two (32) square feet per sign, or two (2) signs not to exceed forty eight (48) square feet, or one sign not to exceed ninety six (96) square feet.

b. All Other Zoned Lots Or Parcels:

(1) Less Than One Acre: One sign per street frontage not to exceed thirty two (32) square feet per sign.

(2) At Least One Acre But Not Greater Than Five Acres: One sign per street frontage not to exceed sixty four (64) square feet per sign.

(3) Greater Than Five Acres But Less Than Ten Acres: Two (2) signs not to exceed sixty four (64) square feet per sign, or one sign not to exceed one hundred twenty eight (128) square feet.

(4) Ten Acres Or More: Three (3) signs not to exceed sixty four (64) square feet per sign, or two (2) signs not to exceed one hundred twenty eight (128) square feet per sign.

c. Real Estate Signs are to be removed as required by the provisions of state law which regulate real estate listings.

d. Directional Real Estate Signs: These signs are intended to be used for the advertising of vacant lots that need traffic to be directed to the lot for sales purposes. One sign not exceeding twenty (20) square feet shall be allowed per vacant lot of one acre or less upon which the sign is erected. One sign not exceeding thirty two (32) square feet shall be allowed per vacant lot of more than one acre upon which the sign is erected. Signs are to be removed within 24 hours of the expiration of the listing. Landowner permission is required for sign erection.

e. Model Complex Signs: These signs shall be located on the project site and conform to the following requirements:

1. One sign per complex not to exceed thirty two (32) square feet.

2. One sign per model not to exceed six (6) square feet.

3. Two (2) traffic direction signs, not to exceed four (4) square feet each.

4. Signs are to be removed when complex ceases to be model home complex.

f. Off-Premises Open House Signs: Off-premises open house signs are permitted subject to the following criteria:

1. A maximum of four (4) signs are allowed per open house.

2. Signs may be put up one hour before opening and must be removed one hour after closing the open house.

3. Landowner permission is required before a sign may be placed on their property.

4. Signs may not be placed in the public rights of way or medians.

12. Window signs covering up to twenty-five percent of the area per window;

13. Political signs not located within a required sight triangle or a required parking stall or parking area and limited to thirty-two square feet and eight feet in height. Temporary political signs shall be removed within five days after the election;

14. Identifying logos on municipally owned water storage reservoirs, when directed by the city council.

15. The following temporary signs:

A. Public or private institutions, school, nonprofit membership organizations, and philanthropic institutions that are educational, cultural; religious or recreational in nature, may display temporary on-premises or off-premises

signs. However, such signs or part thereof shall not contain a commercial advertising message. Locations for temporary signs shall be approved by the building official. Such signs shall comply with the following.

1. The size shall not exceed thirty-two square feet;

2. The height of the sign shall not exceed eight feet;

3. Signs shall not be placed within a required sight triangle or a required parking area;

4. Signs may be placed fifteen days prior to an event and shall be removed within five days of the termination of the event.

15.28.090 Application.

Application for a sign **building** permit shall be made in writing upon forms furnished by the building official. The following information shall be provided:

A. Name and address of owner of the sign and licensed sign contractor;

B. Name and address of owner or the person in possession of the premises where the sign is located or to be located;

C. Clear and legible drawings drawn to scale with description definitely showing the location of the sign which is the subject of the permit and all other existing signs whose construction requires permits;

D. Site plan of premises;

E. Other such data and information as may be required by the building official.

15.28.100 Fees.

Sign Building permit ~~Permit~~ fees for signs regulated by this code shall be regulated by the Uniform Building Code fee tables as adopted by the city. The permit fee for electrical signs or outline lighting shall be identical to the fees established by the State Wiring Bulletin, as adopted by the city.

15.28.110 Inspections.

All signs and sign structures shall be subject to inspection by the building official as required by the Uniform Building Code adopted by the city.

15.28.120 Construction specifications.

A. Supports for signs and sign structures shall be built in conformance with the requirements of the Uniform Building Code as adopted by the city municipal code for wind loads, seismic loads, and other combined loads.

B. Signs shall be constructed to a minimum standard of quality as specified by the city municipal code for noncombustibility, steel, smoke density, ignition properties, and classification of plastics.

C. If design drawings and specifications are not provided, the minimum construction standard shall be set by Tables 1 and 2 (See Pages 16--17).

D. An engineered design shall be provided for all signs in accordance with adopted building codes.

15.28.130 Electrical signs.

Electrical signs shall be constructed following the provisions of the Administrative Rules of South Dakota (ARSD) SDCL 20:44:22, the National Electrical Code and city municipal code. Signs constructed in a UL shop must be energized by a licensed electrician. If a sign is constructed in a shop that is not UL, then wiring of the sign and energizing of the sign must be done by a licensed electrician.

Electrical permits are required for electrical installations serving outdoor signs. Electrical wiring requiring a permit shall be installed by a licensed electrical contractor. The minimum permit fee shall be identical to the fees established by the State Wiring Bulletin, as adopted by the city. Electrical signs and outline lighting shall be listed and labeled in accordance with ARSD SDCL 10:44:22:02, 20:44:22:03 and 20:44:22:04, and the National Electrical Code 600-3.

Electrical signs and outline lighting shall be marked with the manufacturers name, voltage input, and current rating. This marking and the label of a recognized testing lab shall be located where visible and readable from grade and near the disconnect.

All metal parts of electrical signs and outline lighting shall be grounded in accordance with the National Electrical Code.

Each electrical sign or outline lighting system shall have an externally operable disconnect means located within sight of the sign or outline lighting transformer.

Electrical signs may be illuminated internally or externally so long as all lighting is directed away from the public right-of-way and adjacent residential areas. **In addition, off premises signs must comply with the requirements of section 15.28.160(M).**

15.28.140 Maintenance.

All signs and sign structures shall be maintained structurally, and shall be maintained to protect from deterioration, damage, decay and/or abandonment. ~~All signs shall display an advertising message at all times.~~

15.28.150 Advertising message required.

All signs shall display an advertising message. If any sign fails to display a full face advertising message for thirty (30) consecutive days, the Building Official shall notify the owner of the sign that the sign is in violation of this section, and that if the violation is not corrected within sixty (60) days ('the cure period'), the sign will be subject to immediate removal. This section supercedes all of the requirements of section 15.28.040 of this code. 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. The cure period shall continue to run during the appeal process. However, the Building Official shall not cause the sign to be removed until all administrative appeals have been heard and decided.

15.28.160 Off-premises ground signs.

A. Off-premises ground signs shall have no more than one structural support or pole.

B. Off premises sign structure shall be of earth color **tone**.

C. Off-premises signs shall be limited to ~~three hundred seventy eight~~ **two hundred fifty** square feet in size. ~~and shall be separated from each other by not less than three hundred feet and shall not be in conflict with a contrary provision of South Dakota law.~~

D. **Off-premise signs shall be located not nearer than five hundred feet from any other off-premise sign. The distance between off-premise signs shall be measured from the base of the sign in all directions. In addition, no off premises sign shall be located nearer than one thousand feet from the nearest off premises signs as measured by the distance over a public road between a line that extends from the base of each sign to the nearest mid-point of any public road from which the sign is intended to be viewed.**

E. **Off-premise signs shall have no more than two faces.**

F. Off-premises signs shall be mounted parallel and up to **a maximum of** twenty degrees to one another.

~~Off premises ground signs which are constructed with each face mounted more than twenty degrees, but not more than forty five degrees from each other, shall be limited to two hundred eighty eight square feet in size.~~

~~Off premises ground signs shall be separated from off premises wall signs by not less than three hundred feet, as regulated in Section 15.28.200.~~

G. Off-premises signs shall be limited to ~~forty five~~ **thirty** feet in height and shall be ten feet clear from bottom of sign to grade or shall be set back no less than ten feet.

H. Off-premises signs shall not be located within any clear sight triangle as set forth by the city municipal code.

I. **Off-premise signs shall be at least fifty feet from any on-premises sign.**

J. **Off-premise signs shall not be placed in any railroad right of way**

K. **Off-premises sign shall be identified by a label, nameplate, or trademark identifying the owner of the sign, except those signs which are exempt under section 15.28.080(B) of this code.**

L. **Off-premises signs shall not be placed on any property without written consent of the property owner or the owner's authorized agent.**

M. **The light from any light source intended to illuminate an off-premises sign shall be so shaded, shielded or directed so that the light intensity or brightness shall not adversely affect surrounding or facing premises, nor adversely affect safe vision of pedestrians or operators of vehicles moving on public or private streets, driveways or parking areas. Electrical service to all off-premises signs shall be provided an underground service lateral.**

N. **The lowest point of an off-premise sign which extends over an area intended for pedestrian use shall not be less than eight feet above the finished grade below it. The lowest point of a sign which extends over an area intended for vehicular use shall not be less than fourteen feet about the finished grade below it.**

O. **No on premise sign may be converted to an off premise sign.**

15.28.170 Off-premises wall signs.

Off premises wall signs shall be limited to three hundred seventy eight square feet in size.

The total area of off premises wall signs may be two square feet in size for every lineal foot of lot frontage on a public street, except for signs located in the original town, which shall be limited to 1.5 square feet for the first twenty five feet of lot frontage on a public street and .5 square feet for the remaining lot frontage on a public street. Signs may be displayed on any side of the building or structure and shall not project above or beyond the plane of the building wall to which the sign is associated.

~~Off-premises wall signs shall be separated from other off-premises signs by not less than three hundred feet, when not in conflict with a contrary provision of South Dakota law.~~

~~For miscellaneous off-premises signs, see Section 15.28.210. (Ord. 3595 (part), 2000; Ord. 3594 (part), 2000)~~

Off-premises wall signs are prohibited. Existing off-premises wall signs shall be subject to the provisions of section 15.28.230

15.28.180 Sign benches.

Sign benches displaying off-premises advertising may be located only on commercial premises. **The display area on any sign bench shall not exceed twelve square feet.** No more than three sign benches shall be located on any premises. Sign benches must be located within a fifty-foot radius of each other. ~~Sign benches must be separated from other off-premises advertising (including other sign benches on another premises) by no less than three hundred feet.~~ **Sign benches must meet the spacing requirements of 15.28.160.**

15.28.190 Size, height and spacing limitations for on-premises wall signs.

A. The total area of wall signs for all business entities on the premises may be two square feet in size for every lineal foot of lot frontage on a public street, except for business entities located in the original town, which shall be limited to 1.5 square feet for the first twenty-five feet of lot frontage on a public street and .5 square feet for the remaining lot frontage on a public street.

B. For premises having sixteen feet or less of lot frontage on a public street, business entities may display one sign thirty-two square feet in maximum area, except in the original town where business entities may display one sign twenty-four square feet in maximum area.

C. Signs may be displayed on any side of the building or structure and shall not project above or beyond the plane of the building wall to which the sign is associated.

D. In addition to wall signs, each separate business entity may display ground signs.

15.28.200 Size, height and spacing limitations for on-premises ground signs.

A. The total area of on-premises ground signs for all business entities on the premise may be two square feet in size for every lineal foot of lot frontage on a public street, except for business entities located in the original town which shall be limited to 1.5 square feet for the first twenty-five feet of lot frontage on a public street and .5 square feet for the remaining lot frontage on a public street.

B. The separation between on-premises ground signs located on the same premises shall be a minimum of one hundred feet.

The maximum height of on-premises ground signs shall be forty-five feet.

C. On-premises ground signs may have a setback of zero feet from the public right-of-way so long as the bottom of the sign is ten feet clear from grade. Signs not ten feet clear from grade shall be set back a minimum distance of ten feet from the property line.

D. In addition to on-premises ground signs, each separate business entity may display wall signs.

E. On-premises ground signs shall not be located within any clear sight triangle as set forth by city municipal code.

15.28.210 Historic sign requirements.

A. The purpose of this section is to create historic sign districts. The boundaries of the historic sign districts shall correspond to the same boundaries as any historic district or property listed and regulated by the National Register of Historic Places.

B. Approval for any sign located within a historic sign district shall be granted by the historic sign review committee. This committee shall consist of the following five persons:

1. Historic property owner or business owner;
2. Architect;
3. Sign contractor;
4. Member of historic preservation commission;
5. Member of sign code board of appeals.

C. Length of Term. Members shall be appointed by the mayor and approved by the city council for terms of three years. The committee shall elect a chairperson from its membership to serve for a term of one year.

D. In considering sign **building** permits within historic districts, the historic sign review committee shall consider the following: size and position, projection, color, message, texture, materials, illumination, and lettering style for the historic era for which the building or structure was constructed. In order to adequately review these factors, the applicant for a sign **building** permit must, in addition to the requirements of Section 15.28.050, submit the following: a photograph of the property and structure, a photograph or scaled drawing of the property or structure with the proposed sign sketched on it, color chips or color samples of the same colors that are to be used for the sign, and a scaled drawing of the proposed sign depicting the sign fonts and other attributes as they will actually appear on the sign.

E. The historic sign review committee may adopt rules in accordance with this chapter. Meetings of the committee shall be held at the call of the chairperson and/or the building official. All meetings of the committee shall be open to the public. The committee shall keep minutes of its proceedings, showing the vote of each member upon each question; or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions. A majority of the voting members of the review committee shall constitute a quorum.

F. If the historic sign review committee approved an application for a sign which meets the criteria established by this section, then a sign **building** permit may be issued. In order to ensure compliance with the provisions of this section, the committee may approve applications with stipulations that must be met before a sign **building** permit may be issued by the city. If the historic sign review committee denies an application for a sign which does not meet the criteria established by this section, the applicant shall be notified in writing as to the reasons for denial. Decisions of the historic sign review committee may be appealed to the sign code board of appeals.

15.28.220 Miscellaneous signs.

The following sign requirements are intended to provide exceptions or qualify and supplement the other requirements of this code:

A. Public or private institutions, school, nonprofit membership organizations, and philanthropic institutions that are educational, cultural, religious or recreational in nature, may display on-premises signs. However, such sign or part thereof shall not contain a commercial advertising message. Such signs shall comply with the following:

1. For on-premises ground signs and on-premises wall signs, the size shall not exceed thirty-two square feet;
2. The height of the sign shall not exceed eight feet;
3. Signs shall not be placed within a required sight triangle or a required parking area;
4. Electric signs shall comply with Section ~~15.28.135~~ **15.28.130**.

B. Each separate business entity may display one pedestrian-oriented sign for each wall of the building that faces a public street in the original town limited to five-foot projection, eight square feet, nine-inch letters, and eight-foot clearance.

C. The total area of wall signs or ground signs for all residential entities on the premises may be one square foot for each dwelling unit. Wall signs or ground signs for all residential entities on the premises must also meet the following:

1. A maximum of one such sign per street frontage is allowed;
2. The maximum height of such sign shall be eight feet;
3. The maximum width of the sign area shall be eight feet.

D. Wall signs or ground signs for a commercial use in a residential district or a home occupation may be one square foot in size per commercial use or home occupation.

E. Miscellaneous signs shall not be located within any clear sight triangle as set forth by city municipal code.

15.28.230 Nonconforming signs.

Any sign existing upon the date of adoption of this code which does not conform to the provisions of this code may remain except for the following:

A. Any abandoned sign;

B. Any sign declared unlawful by the building official;

C. Any sign which has been moved, removed, relocated or damaged by more than fifty percent of the value of the sign at the time of such damage;

D. Any sign located on a premises when the use of that premises changes from one Standard Industrial Classification (SIC) two-digit code to another.

E. Any off-premises sign existing at the time of the adoption of this code with a face greater than 378 square feet must comply with the provisions of sections 15.28.160(C) and 15.28.160(G) of this code within 5 years of the enactment of this ordinance.

F. Any off-premises sign existing at the time of the adoption of this code with a face less than 378 square feet but more than 250 square feet must comply with the provisions of sections 15.28.160(C) and 15.28.160(G) of this code within 10 years of the enactment of this ordinance.

G. Any existing sign that does not conform to the requirements section 15.28.160(C) and/or 15.28.160(G) of this code, within the time allotted by subsections 15.28.230(E&F) of this code is deemed to be a prohibited sign and is subject to removal under the provisions of section 15.28.040 of this code.

15.28.240 Annexed Off-Premises Signs

A. Any sign annexed into the City subsequent to the adoption of this code with a face greater than 378 square feet must comply with the provisions of sections 15.28.160(C) and 15.28.180(G) of this code within 5 years of the date of annexation.

B. Any sign annexed into the City subsequent to the adoption of this code with a face less than 378 square feet but more than 250 square feet must comply with the provisions of sections 15.28.160(C) and 15.28.160(G) of this code within 10 years.

C. Any sign annexed into the City subsequent to the adoption of this ordinance that does not conform to the requirements sections 15.28.160(C) and/or 15.28.160(G) of this code, within the time allotted by sub-sections 15.28.240(A&B) of this code is deemed to be a prohibited sign and is subject to removal by the provisions of 15.28.040 of this code.

15.28.250 Off Premise Sign Credit System

A. Off Premise Sign Credit: Off premise sign credits shall be issued by the city Building Official to those owners of off premises signs who have completely removed a previously existing, lawfully erected off premise sign and all associated structures after the effective date hereof.

B. The Building Official shall not issue any off premise sign credits until:

1. The owner of the sign completes an application for an off premise sign credit; and

2. The owner of the sign provides proof to the Building Official that the sign for which a credit is sought was lawfully erected and in existence prior to the adoption of this ordinance; and

3. The Building Official determines the sign is currently not a prohibited sign as defined in this code, and conforms to all other applicable federal, state or local laws and regulations; and

4. The Building Official issues a Certificate of Eligibility For Off Premise Sign Credit. Certificates of Eligibility For Off Premise Sign Credit shall expire twenty-one days after it is issued and become null and void; and

5. The Building Official confirms, by on-sight inspection, that the sign has been completely removed and that the Certificate of Eligibility For Off Premise Sign Credit has not expired. No request for inspection shall be made to the Building Official until the structure has been completely removed. The Building Official shall make an inspection within two working days of a request for inspection.

C. Off Premise Sign Credit Basis

1. For any sign that has any face larger than 250 square feet, the Building Official shall issue one or two Off Premise Sign Credits in accordance with subsections (C)(4) and (C)(5) of this section for a sign with faces not larger than 250 square feet.

2. For any sign with a face less than 250 square feet, the Building Official shall issue one or two Off Premise Sign Credits in accordance with subsections (C)(4) and (C)(5) of this section for a sign with faces not larger than the square footage of the sign removed.

3. For signs with faces of different face sizes, the largest face shall be used to determine the square footage of the Off Premise Sign Credit.

4. If the sign that was removed did not conform to the requirements of either section 15.28.050(K), 15.28.160(D) or 15.28.160(I) of this code, the Building Official shall issue two Off Premise Sign Credits in accordance with 15.28.250(C)(1-3).

5. If the sign that was removed conformed to the requirements of each of sections 15.28.050(K), 15.28.160(D) and 15.28.160(I) of this code, the Building Official shall issue one Off Premise Sign Credit in accordance with 15.28.250(C)(1-3).

6. The square footage permitted by one Off Premise Sign Credit may not be transferred or added to the square footage of another Off Premise Sign Credit.

D. Off Premise Sign Credits are freely transferable through legal means.

E. Off Premise Sign Credits may only be used to erect a new off premise sign if the proposed new sign is in full compliance with all requirements of the Rapid City Municipal Code and all applicable federal, state or local laws and regulations.

15.28.260 Severability

If any section, sentence, clause, phrase, or other portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, it shall in no way affect the validity of any remaining portions of this ordinance.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(SEAL)

First Reading:

Second Reading:

Published:

Effective: