

ORDINANCE NO. 3872

AN ORDINANCE TO DEFINE AND APPLY THE TERMS “ABUT, ADJACENT, ADJOIN AND CONTIGUOUS” TO THE ZONING AND SUBDIVISION ORDINANCES BY ADDING SECTIONS 17.04.013, 17.04.021, 17.04.022, AND 17.04.163 TO THE RAPID CITY MUNICIPAL CODE AND BY AMENDING SECTIONS 17.38.080 (A) (6), 17.38.080 (B) (6), 17.50.180 (A), 17.50.300 (C), 16.20.030 (E), 16.20.050 (B) (1), 17.04.285, 17.04.755, 17.08.030 (H), 17.10.030 (H), 17.28.040 (C)(2)(d), 17.38.030 (I), 17.50.060 (A), 17.50.070 (A)(1)(b), 17.50.100 (A), 17.50.105 (A), 16.12.050, 16.28.040 (H), 17.04.075, 17.04.140, 17.04.335, 17.04.645, 17.30.040 (C) (1), 17.32.040 (C) (1), 17.50.290, 17.50.300 (B) (1) (b), 17.50.300 (E) (2)(b), 17.56.090 (D), 16.12.030 (E), 16.20.040 (O)(1), 17.18.080, 17.20.080, 17.36.080, 17.40.070, 17.30.070, 17.32.070, 17.24.040 (D) (2), 17.40.040 (B), 17.40.040 (C), AND 17.50.110 (C) (3) OF THE RAPID CITY MUNICIPAL CODE

WHEREAS, the City of Rapid City has determined that the terms “Abut”, “Adjacent”, “Adjoin” and “Contiguous” are used throughout the zoning ordinance and the subdivision ordinance; and,

WHEREAS, the City of Rapid City desires to clarify the meaning of these terms as used in these ordinances to prevent confusion and to promote the usefulness of these ordinances; and,

WHEREAS, the Rapid City Planning Commission has recommended definitions and amendments to the municipal code to implement those definitions; and,

WHEREAS, the Rapid City Common Council concurs in the recommendations of the Planning Commission;

NOW THEREFORE BE IT ORDAINED by the City of Rapid City that the following sections are hereby incorporated into the Rapid City Municipal Code:

17.04.013 Abut.

“Abut” means to share any portion of a lot line, including a single point.

17.04.021 Adjacent.

“Adjacent” means parcels with no private lots between them (can be separated by public ROW).

17.04.022 Adjoin.

“Adjoin” means to share any portion of a lot line, including a single point.

17.04.163 Contiguous.

“Contiguous” means to share any portion of a lot line, including a single point.

BE IT FURTHER ORDAINED by the City of Rapid City that sub-section 17.38.080(A)(6) of the Rapid City Municipal Code is hereby amended to read as follows:

17.38.080 (A) (6) “No type I mobile home district shall be created which contains less than three acres of ~~contiguous~~ adjacent territory.

BE IT FURTHER ORDAINED by the City of Rapid City that sub-section 17.38.080(B)(6) of the Rapid City Municipal Code is hereby amended to read as follows:

17.38.080 (B) (6) “No type II mobile home district shall be created which contains less than five acres of ~~contiguous~~ adjacent territory.

BE IT FURTHER ORDAINED by the City of Rapid City that sub-section 17.50.180(A) of the Rapid City Municipal Code is hereby amended to read as follows:

17.50.180 (A) “Where the major portion of a motel complex is located in a proper zoning which allows motel complexes, a portion of the motel may be located in a MDR and HDR area if this portion is contiguous ~~or adjacent~~ to the properly zoned motel area.”

BE IT FURTHER ORDAINED by the City of Rapid City that sub-section 17.50.300(C) of the Rapid City Municipal Code is hereby amended to read as follows:

17.50.300 (C) Definitions

"Accessway" means a paved area intended to provide ingress and egress of vehicular traffic from a public right-of-way to an off-street parking area or loading area.

~~"Adjacent," for the purpose of this section, means an area where the property lines are contiguous, or are separated by a street, alley, easement or right-of-way.~~

"Berm" means a mound of dirt used for screening or landscaping purposes which is planted with low-lying shrubs or groundcover so as to prevent erosion.

"Buffer" means a visual screen, composed of masonry, wood or plantings, or a combination thereof, which will be a minimum of eighty percent opaque.

"Developed area" means that portion of a plot or parcel upon which a building, structure, pavement or other improvements have been placed which does not meet the definition of "undeveloped area."

"Frontage" means lineal distance measured along each street right-of-way.

"Groundcover" means low-growing plants planted in such a manner as to form a continuous cover over the ground.

"Landscape development" means trees, shrubs, groundcover, vines, grasses or earthen berms installed in planting areas for the purpose of fulfilling the requirements of these regulations. (This shall not include rock nor artificial plant materials.)

"Paved ground surface area" means any paved ground surface area (excepting public right-of-way) used for the purpose of driving, parking, storing, or displaying of vehicles, boats, trailers and mobile homes, including new and used care lots and other open lot uses.

"Planting area" means any area designed for landscape planting having a minimum of twenty-five square feet of actual plantable area.

"Reconstruction" means rehabilitation or replacement of a structure or structures on property which either have been damaged, altered or removed.

"Shrub" means a woody plant that usually remains low (minimum two feet in height) and produces shoots or trunks from the base. It is not usually tree-like nor single stemmed.

"Spread" means the diameter of tree foliage measured at the broadest point of the tree.

"Tree" means any self-supporting woody plant which usually produces one main trunk and which normally grows to a minimum of fifteen feet in height.

"Undeveloped area" means that portion of a plot or parcel not occupied by a building, structure, pavement or other improvements and which spans the entire length or width of the property and which is at least seventy-five feet deep. All undeveloped areas must have a sufficient cover of hardy native plant materials or grass.

"Xeriscaping" means the planting and maintenance of materials which are appropriate for the local conditions requiring little or no irrigation or maintenance.

BE IT FURTHER ORDAINED by the City of Rapid City that sub-section 16.20.030(E) of the Rapid City Municipal Code is hereby amended to read as follows:

16.20.030 (E) ~~Adjoining~~ Adjacent development: property lines, roads, watercourses;

BE IT FURTHER ORDAINED by the City of Rapid City that sub-section 16.20.050(B)(1) is hereby amended to read as follows:

16.20.050 (B) (1) The boundary lines of the subdivision including distances and angles or bearings, and all section lines. The names of all ~~adjoining~~ adjacent subdivisions or a description of unplatted areas and their street layout;

BE IT FURTHER ORDAINED by the City of Rapid City that section 17.04.285 of the Rapid City Municipal Code is hereby amended to read as follows:

17.04.285 Floodway

"Floodway" means the channel of the watercourse and those portions of the ~~adjoining~~ adjacent floodplains which are reasonably required to carry and discharge the regulatory flood. This is or may be greater than the floodway zoning district.

BE IT FURTHER ORDAINED by the City of Rapid City that section 17.04.755 of the Rapid City Municipal Code is hereby amended to read as follows:

17.04.755 Yard

"Yard" means an open space between a building and the ~~adjoining~~ lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except where otherwise specifically provided in this title, that building or structure may be located in a portion of a yard required for a main building. In measuring a yard for the purpose of determining the width of the side yard, the depth of a front yard or the depth of a rear yard, the shortest horizontal distance between the lot line and the main building shall be used.

BE IT FURTHER ORDAINED by the City of Rapid City that sub-section 17.08.030(H) of the Rapid City Municipal Code is hereby amended to read as follows:

17.08.030 (H) Golf course or country clubs, with ~~adjoining~~ adjacent grounds of not less than sixty acres, but not including miniature courses and driving tees operated for commercial purposes;

BE IT FURTHER ORDAINED by the City of Rapid City that sub-section 17.10.030(H) of the Rapid City Municipal Code is hereby amended to read as follows:

17.10.030 (H) Golf courses or country clubs, with ~~adjoining~~ adjacent grounds of not less than sixty acres, but not including miniature courses and driving tees operated for commercial purposes;

BE IT FURTHER ORDAINED by the City of Rapid City that sub-section 17.28.040(C)(2)(d) is amended to read as follows:

17.28.040 (C)(2)(d) So far as practicable, structures be placed approximately on the same flood flow lines as those of ~~adjoining~~ neighboring structures;

BE IT FURTHER ORDAINED by the City of Rapid City that sub-section 17.38.030(I) of the Rapid City Municipal Code is hereby amended to read as follows:

17.38.030 (I) Golf course or country clubs, with ~~adjoining~~ adjacent grounds of not less than sixty acres, but not including miniature courses and driving tees operated for commercial purposes,

BE IT FURTHER ORDAINED by the City of Rapid City that sub-section 17.50.060(A) of the Rapid City Municipal Code is hereby amended to read as follows:

17.50.060 (A) Initial Development Plan. When a petitioner is requesting approval of a planned development, the conditional use procedure shall be followed as specified in Section 17.54.030 of this title with the exception of notification requirements. Notice to ~~adjoining~~ property owners within two hundred fifty feet of the property under consideration, inclusive of public right-of-way, shall be required. Notice is also required via first class mail, to all property owners located within the planned development and the planned development designation. Additionally, a sign noting the fact that a Planned Development application is pending shall be posted on the site not less than seven days before the public hearing before the Planning Commission. The sign shall be maintained on the site until the time for appeal to the City Council has expired or until the City Council's action on an appeal is final or the petition is withdrawn. Approved signs shall be provided by the Planning Department. The Planning Department shall require a reasonable deposit sufficient to cover the cost of replacement of such sign or signs and shall determine the number and location of the sign or signs to be posted on the site addressed in the petition. Public notice and a public hearing conducted by the Planning Commission is also required. The required notification and hearings shall occur at the initial and final development plan stage and the planned development designation stage, if applicable. The approved initial development plan shall be filed with the city planning department.

BE IT FURTHER ORDAINED by the City of Rapid City that sub-section 17.50.070(A)(1)(b) of the Rapid City Municipal Code is hereby amended to read as follows:

17.50.070 (A)(1)(b) Any change in the street pattern which would impact ~~adjoining~~ adjacent property;”

BE IT FURTHER ORDAINED by the City of Rapid City that sub-section 17.50.100(A) of the Rapid City Municipal Code is hereby amended to read as follows:

17.50.100 (A) Planned commercial developments are designed to make commercial development compatible with ~~adjoining~~ adjacent land use to properly address environmental factors such as steep slopes, geologic conditions and drainage, and to mitigate negative impact upon public facilities such as streets and highways, water, sanitary and storm sewer systems. If deemed appropriate, the city may require special precautions to address these issues.

BE IT FURTHER ORDAINED by the City of Rapid City that sub-section 17.50.105(A) of the Rapid City Municipal Code is hereby amended to read as follows:

17.50.105 (A) Planned light industrial developments are designed to make light industrial development compatible with ~~adjoining~~ adjacent land use, to facilitate zero lot line buildings upon a developmental lot, to properly address environmental factors such as steep slopes, geological conditions and drainage, and to mitigate negative impact upon public facilities such as streets and highways, water, sanitary and storm sewer systems. If deemed appropriate, the city may require special precautions to address these issues.

BE IT FURTHER ORDAINED by the City of Rapid City that section 16.12.050 of the Rapid City Municipal Code is hereby amended to read as follows:

16.12.050 Street plan – Half streets.

Where there exists a dedicated or platted half-street ~~adjacent~~ adjoining to the tract to be subdivided, the other half shall be platted. No new half streets shall be permitted.

BE IT FURTHER ORDAINED by the City of Rapid City that sub-section 16.28.040(H) of the Rapid City Municipal Code is hereby amended to read as follows:

16.28.040 (H) All lots ~~adjacent~~ abutting to an arterial road or a federal, state or county highway shall have placed upon the plat a non-access easement.

BE IT FURTHER ORDAINED by the City of Rapid City that section 17.04.075 of the Rapid City Municipal Code is hereby amended to read as follows:

17.04.075 Basement.

“Basement” means that portion of a building between floor and ceiling, which is partly above and partly below grade (~~adjacent~~ adjoining ground elevation), but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling (see Story).

BE IT FURTHER ORDAINED by the City of Rapid City that section 17.04.140 of the Rapid City Municipal Code is hereby amended to read as follows:

17.04.140 Cellar.

“Cellar” means that portion of a building between the floor and ceiling which is wholly or partly below grade (~~adjacent~~ adjoining ground elevation) and so located that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling. (see Story).

BE IT FURTHER ORDAINED by the City of Rapid City that section 17.04.335 of the Rapid City Municipal Code is hereby amended to read as follows:

17.04.335 Grade, ~~adjacent~~ adjoining ground elevation.

~~Adjacent~~ “Adjoining ground elevation grade” means the lowest part of elevation of the finished surface of the ground surface, paving or sidewalk within the area between the building and the property line, or when the property line is more than five feet from the building, between the building and a line five feet from the building.

BE IT FURTHER ORDAINED by the City of Rapid City that section 17.04.645 of the Rapid City Municipal Code is hereby amended to read as follows:

17.04.645 Story.

“Story” means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above except that the top-most story shall be that portion of a building included between the upper surface of the top-most floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar or unused under-floor space is more than six feet above grade (~~adjacent~~ adjoining ground elevation) as defined herein for more than fifty percent of the total perimeter or is more than twelve feet above grade as defined herein at any point, such basement, cellar or unused under-floor space shall be considered a story.

BE IT FURTHER ORDAINED by the City of Rapid City that sub-section 17.30.040(C)(1) of the Rapid City Municipal Code is hereby amended to read as follows:

17.30.040 (C) (1) All parking areas and buildings, both main and accessory, shall be set back not less than twenty-five feet from all street lines ~~adjacent~~ abutting to the shopping center site.

BE IT FURTHER ORDAINED by the City of Rapid City that sub-section 17.32.040(C)(1) of the Rapid City Municipal Code is hereby amended to read as follows:

17.32.040 (C) (1) All parking areas and buildings, both main and accessory, shall be set back not less than twenty-five feet from all street lines ~~adjacent~~ abutting to the shopping center site.

BE IT FURTHER ORDAINED by the City of Rapid City that section 17.50.290 of the Rapid City Municipal Code is hereby amended to read as follows:

17.50.290 Off-street loading and unloading requirements – In all commercial or industrial districts, except the central business district (CBD), and on the same premises with every building devoted to retail trade, retail and wholesale food market, warehouse, supply houses, wholesale or manufacturing trade, hotels, hospitals, laundries, dry cleaning establishments, or other buildings where large amounts of goods are received or shipped, there shall be provided and maintained on the lot adequate space for vehicle standing, loading and unloading. The space shall be ~~adjacent~~ adjoining to the opening used for loading and unloading and situated to avoid undue interference with the use of streets, alleys and public access easements.

A. Loading Spaces Required. All commercial and industrial uses shall provide and maintain the following off-street loading spaces:

Use (square feet of gross floor area)	Loading Spaces
0 -- 20,000	1
20,001 --40,000	2
40,001 --60,000	3
60,001 --80,000	4
80,001 --110,000	6
over 110,000	*

* There shall be provided one additional off-street loading and unloading space for each additional forty thousand square feet of gross flood area (SFGFA), or fraction thereof, in excess of one hundred ten thousand SFGFA.

B. Loading Space Layout and Access.

1. The minimum size of loading spaces shall be twelve feet in width, forty feet in length, and fourteen feet in vertical clearance.

2. All permanent off-street loading, unloading and maneuvering areas shall be paved per the "Minimum Standards for Construction of Parking Lots" approved June 16, 1980.

3. Off-street dock areas shall be located so that trucks using the docks do not encroach upon any public right-of-way, street or alley, and entrances and exits shall be located to minimize traffic congestion.

4. An off-street loading or unloading area for commercial and industrial vehicles shall be large enough to meet minimum turning radii of the outside wheel paths listed in the following table:

Vehicle Type	Outside Turning Radius
Single-unit truck	42'
Semitrailer (intermediate)	40'
Semitrailer	45'

BE IT FURTHER ORDAINED by the City of Rapid City that sub-section 17.50.300(B)(1)(b) of the Rapid City Municipal Code is hereby amended to read as follows:

17.50.300 (B)(1)(b) “To ensure that the ~~off-street paved ground-parking~~ area and the ~~adjacent~~ adjoining right-of-way are clearly and visibly delineated;”

BE IT FURTHER ORDAINED by the City of Rapid City that sub-section 17.50.300(E)(2) of the Rapid City Municipal Code is hereby amended to read as follows:

17.50.300 (E)(2)(b) If calculation of the required landscape points in accordance with this section results in a total point requirement of fifty thousand or more, and at least twenty-five percent of the total perimeter of the developed portion of the property abuts or is within seventy-five feet of a public roadway, and the property is located in an industrial zoning district, the property qualifies for either of the following two options:

Option No. 1: Irrigated Landscape Design.

1. A lateral zone of evenly spaced vegetation resulting in a seventy percent buffer (as measured at mature plant spread) shall be required along property lines which are within seventy-five feet of rights-of-way and residential zoning districts. All vegetation must be planted within twenty-five feet of the lot line or within twenty-five feet of easements which are ~~adjacent~~ adjoining to the lot line.
2. A minimum of twenty-five percent of lineal feet of the vegetation must be medium trees or larger. Medium trees must have at least a twenty-five-foot mature spread.
3. A drip irrigation system with an automated controller is required to irrigate all woody landscape material where either gravel or native grass is to be located around the vegetation.
4. The use of a water-saving sprinkler system with an automated controller is required where turf grass is to be planted around the vegetation buffer.

Option No. 2: Nonirrigated Landscape Design.

1. A lateral zone of evenly spaced vegetation resulting in a one hundred percent buffer (as measured at mature plant spread) shall be required along property lines within seventy-five feet of rights-of-way and residential zoning districts. All vegetation must be planted within twenty-five feet of the lot line or within twenty-five feet of easements ~~adjacent~~ adjoining to the lot line.
2. A minimum of twenty-five percent of lineal feet of the vegetation must be medium trees or larger. Medium trees must have at least a twenty-five-foot mature spread.

BE IT FURTHER ORDAINED by the City of Rapid City that sub-section 17.56.090(D) of the Rapid City Municipal Code is hereby amended to read as follows:

17.56.090 (D) ~~“Business park districts shall be considered intensity level two when determining the percent increase in required landscaping when an adjacent use is residential as per Section 17.50.300 (E)(2)(b) of this code.”~~ When a business park district is adjacent to a residential district, landscaping shall be provided as regulated in the landscape regulations adopted by Section 17.50.300 of this title. Fifty percent of the plant material shall be visible from the residential district whenever possible.

BE IT FURTHER ORDAINED by the City of Rapid City that sub-section 16.12.030(E) of the Rapid City Municipal Code is hereby amended to read as follows:

16.12.030 (E) “Subdivisions which abut, or are adjacent to, or include within the proposed area to be subdivided, any highway or arterial street, shall provide:

1. A marginal access street; or
2. Reverse frontage with screen planting contained in a nonaccess reservation along the rear property line; or
3. Deep lots with rear service drives; or
4. Other treatment as may be necessary to adequately protect residential properties and to afford separation of through and local traffic.

BE IT FURTHER ORDAINED by the City of Rapid City that sub-section 16.12.040(O)(1) of the Rapid City Municipal Code is hereby amended to read as follows:

16.20.040 (O) (1) Location of all poles or subsurface facilities as necessary to serve each lot or parcel of land within the subdivision, and where necessary to ~~abutting~~ adjacent property,

BE IT FURTHER ORDAINED by the City of Rapid City that section 17.18.080 of the Rapid City Municipal Code is hereby amended to read as follows:

17.18.080 Screening Requirements

When a general commercial zoning district ~~abuts~~ is adjacent to a side or rear year of a residential district, ~~exclusive of alleys~~, an opaque ornamental screening fence not less than five nor more than six feet in height shall be constructed along the ~~abutting~~ adjacent property lines and shall be maintained in good condition.

BE IT FURTHER ORDAINED by the City of Rapid City that section 17.20.080 of the Rapid City Municipal Code is hereby amended to read as follows:

17.20.080 Screening Requirements

When a neighborhood commercial zoning district ~~abuts~~ is adjacent to a side or rear year of a residential district, ~~exclusive of alleys~~, an opaque ornamental screening fence not less than five nor more than six feet in height shall be constructed along the ~~abutting~~ adjacent property lines and shall be maintained in good condition.

BE IT FURTHER ORDAINED by the City of Rapid City that section 17.36.080 of the Rapid City Municipal Code is hereby amended to read as follows:

17.36.080 Screening Requirements

Whenever a hotel-motel zoning district ~~abuts~~ is adjacent to a side or rear year of a residential district, ~~exclusive of alleys~~, an opaque ornamental screening fence not less than five nor more than six feet in height shall be constructed along the ~~abutting~~ adjacent property lines and shall be maintained in good condition.

BE IT FURTHER ORDAINED by the City of Rapid City that section 17.40.070 of the Rapid City Municipal Code is hereby amended to read as follows:

17.40.070 Screening Requirements.

When an office commercial district ~~abuts~~ is adjacent to the rear yard of a residential district, ~~exclusive of alleys~~, an opaque ornamental screening fence not less than five nor more than six feet in height shall be constructed along the ~~abutting~~ adjacent property lines and shall be maintained in good condition.”

BE IT FURTHER ORDAINED by the City of Rapid City that section 17.30.070 of the Rapid City Municipal Code is hereby amended to read as follows:

17.30.070 Screening Requirements.

When a neighborhood shopping center is near or ~~abuts~~ is adjacent to a residential district, fences, walls or year-round screen planting shall be provided when necessary to shield such residential districts from parking lot illumination, headlights, fumes, heat, noise and dust and to reduce the visual encroachment of commercial architecture, signs and activity on residential privacy and residential neighborhood character.”

BE IT FURTHER ORDAINED by the City of Rapid City that section 17.32.070 of the Rapid City Municipal Code is hereby amended to read as follows:

17.32.070 Screening Requirements.

When a community shopping center is near or ~~abuts~~ is adjacent to a residential district, fences, walls or year-round screen planting shall be provided when necessary to shield such residential districts from parking lot illumination, headlights, fumes, heat, noise and dust and to reduce the visual encroachment of commercial architecture, signs and activity on residential privacy and residential neighborhood character.

BE IT FURTHER ORDAINED by the City of Rapid City that sub-section 17.24.040(D)(2) of the Rapid City Municipal Code is hereby amended to read as follows:

17.24.040 (D) (2) The depth of any rear yard which ~~abuts a street or~~ abuts a residential district shall be not less than fifty feet.

BE IT FURTHER ORDAINED by the City of Rapid City that sub-section 17.40.040(B) of the Rapid City Municipal Code is hereby amended to read as follows:

17.40.040 (B) Side Yard. No building shall be located closer than twenty-five feet to a side property line, except when the side lot line abuts a commercial district, with the exception of the office commercial district, or an industrial district. In such case, the setback from the side lot line shall be the same as that of the district abutting it. If a property zoned office commercial abuts another property that is zoned office commercial, then the side yard setback shall be eight feet for a single story building and twelve feet for a two-story building.

BE IT FURTHER ORDAINED by the City of Rapid City that sub-section 17.40.040(C) of the Rapid City Municipal Code is hereby amended to read as follows:

17.40.040 (C) Rear Yard. No building shall be located closer than twenty-five feet to a rear property line, except when the rear lot line abuts a commercial district, with the exception of the office commercial district, or an industrial district. In such case, the setback from the rear lot line shall be the same as that of the district abutting it. If a property zoned office commercial abuts another property that is zoned office commercial, then the rear yard setback shall be eight feet for a single story building and twelve feet for a two-story building.”

BE IT FURTHER ORDAINED by the City of Rapid City that sub-section 17.50.110(C)(3) of the Rapid City Municipal Code is hereby amended to read as follows:

17.50.110 (C) (3) Mobile home spaces must ~~may~~ abut upon a driveway of not less than twenty feet in width, which shall have unobstructed access to the access road within the mobile home park. Vehicular access shall be provided from a public street, and all dead-end driveways shall include adequate vehicular turning space.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(SEAL)

First Reading:

Second Reading:

Published:

Effective: