

MEMORANDUM

TO: Mayor Jerry Munson
City Council Members

FROM: Adam Altman
City Attorney

RE: Development Appeals and Review Board Ordinance

DATE: August 9, 2002

Attached is the draft ordinance submitted to our office. Unfortunately, we haven't had a chance to thoroughly review all of its provisions. Certain elements probably will not comply with state law, and we want to make sure that any ordinance that comes out of this office meets all state law requirements.

However, we wanted to place this on the agenda to help gain input into what the Council might ultimately be looking for.

I look forward to discussing with you how you want the ordinance to read. We will have prepared a brief summary of this item at the Legal and Finance Committee meeting.

AA/map

ORDINANCE NO.

AN ORDINANCE ESTABLISHING A DEVELOPMENT APPEALS AND REVIEW BOARD, BY ADDING CHAPTER 2.72 TO TITLE 2 OF THE RAPID CITY MUNICIPAL CODE

WHEREAS the Common Council for the City of Rapid City, South Dakota, has determined that there are many technical engineering and design issues presented in connection with developments located within and around the City of Rapid City which require specialized expertise and information beyond the knowledge of the Council; and

WHEREAS various citizens within the City of Rapid City have requested that this Council consider the organization of a Board of Appeals whose function would be to pass upon complaints and intermediate appeals from decisions of the City of Rapid City Engineering, Planning and Fire Departments concerning various criteria necessary for the development of real estate in Rapid City, and to render opinions and otherwise advise the Council on related issues so as to more fully inform the Council on various issues surrounding the approval, regulation, and administration of requests for developments in and around the City of Rapid City; and

WHEREAS the Council has found that the adoption of an intermediate review process would assist the Council in making more informed decisions on the orderly and uniform development of real property within its jurisdiction and would otherwise foster and improve the City of Rapid City's various Department relationships and lines of communication with applicants who provide the infrastructure for the community; and

WHEREAS the Council has determined that it is within its legal authority to form and organize such a board for the purposes of (1) acting as an intermediary between the City of Rapid City Engineering, Planning and Fire Departments and applicants, (2) reviewing complaints and/or appeals from the City of Rapid City Engineering, Planning and Fire Department decisions on proposed real estate developments, (3) to have input into design criteria necessary for the development of real estate, and (4) to provide advice and opinions to the Council on development issues.

NOW, THEREFORE, BE IT ORDAINED that the following enactment be passed into law by the Common Council of the City of Rapid City, South Dakota:

**DEVELOPMENT APPEALS
AND REVIEW BOARD**

Section 2.72.010 Name.

There is hereby formed a Development Appeals and Review Board.

Section 2.72.020 Purpose.

The purpose and function of the Board shall be to hear and determine all appeals and complaints filed by applicants relating to determinations made by the City of Rapid City Engineering, Planning and Fire Departments on proposed developments within the Council's jurisdiction and to provide advice and recommendations on related issues for Council's consideration and to aid in the review of existing design criteria and to have input into new design criteria.

Section 2.72.030 Function.

The Development Appeals and Review Board shall preside over and hear appeals and complaints filed with it and concerning the Council's determinations on development within its jurisdiction. The Board shall further render its opinion on any such complaint or appeal and shall deliver such opinion to the Council. However, the Council shall maintain the final determination as to any such application, complaint, or appeal.

Section 2.72.040

The Board shall in conjunction with the City Engineering Department, help to further develop, propose, and maintain a Development Design Criteria Manual outlining the design criteria for developments and subdivisions within the jurisdiction of the Council and shall present the same, and any revisions thereto to the Council for adoption.

Section 2.72.050 Membership Requirements.

The Board shall consist of seven (7) residents of the City of Rapid City who shall be appointed by the Council of the City of Rapid City and who shall serve two year staggered terms at the pleasure of the Council. Further, the Board shall consist of two (2) registered professional engineers or land surveyors, two (2) persons from the development community, one (1) person from the Rapid City Economic Development Partnership, and two (2) persons from the community at large. No current city employee, elected city official or paid city consultant shall be allowed to serve as a voting member of the committee.

Section 2.72.060 Appeals/Complaints.

Any appeal or complaint stemming from a determination made by the City of Rapid City Engineering, Planning or Fire Departments and concerning the development of real property within the jurisdiction of the Council may be taken to the Board upon written notice served upon the appropriate City of Rapid City Department and the Chairperson of the Board. Such appeal must be served within sixty (60) days of the decision or action appealed from the _____. The Board shall thereafter conduct such investigations and/or inquiries, as it deems expedient and may preside over hearings, which shall be duly noticed.

Section 2.72.070

Any hearing or deliberation conducted by the Board may be held at such city facilities and may be made available for such purposes by the Council or the Mayor.

Section 2.72.080 Determinations.

The determinations, proposals, recommendations of the Board shall be made upon the majority vote of its members. Any determination or recommendation of the Board shall be presented to the Council in person and/or in writing by the Board at any meeting of the Council in which such decision or recommendation is calendared or otherwise allowed by the Council.

Section 2.72.090 Investigations.

At the request of the Council, any of its members, or upon the Board's determination, the Board may conduct investigations and/or studies concerning development issues within the jurisdiction of the Council as may be appropriate to determine violations, compliance, or the propriety of real estate development activities.

Section 2.72.100 Remuneration.

The Board shall consist of volunteers who shall not be entitled to any remuneration for their services as members of the Board. However, the Board may, at the discretion of the Council, be reimbursed for its reasonable and actual out-of-pocket expenses incurred in furtherance of its purposes and functions as outlined above. Requests for remuneration of such expenses shall be made in writing and submitted to the Council.

Section 2.72.110

Expenses submitted to the Council for remuneration to the Board or its members must be approved by the Council in advance and are payable in the discretion of the Council.

Section 2.72.120 Immunity and Protection.

All duly appointed members of the Board shall be entitled to the immunities and protections afforded public officials for the City of Rapid City and shall be indemnified and held harmless by the City of Rapid City who shall defend the Board and its members

from any claim, demand, or cause of action, inaction, or determination taken by the Board or its members in furtherance of its purpose and function and outlined herein.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(SEAL)

First Reading:

Second Reading:

Published:

Effective: