

**ORDINANCE NO. 5712**

**AN ORDINANCE REQUIRING A DISCLOSURE STATEMENT BE PROVIDED TO OWNERS OF PROPERTY WHEN THE CITY OF RAPID CITY OR THE RAPID CITY PLANNING COMMISSION IS THE APPLICANT REQUESTING THE PROPERTY BE REZONED BY AMENDING SECTION 17.54.040 OF THE RAPID CITY MUNICIPAL CODE.**

WHEREAS, the City of Rapid City has adopted a zoning ordinance and comprehensive plan pursuant to SDCL Chapter 11-4; and

WHEREAS, the zoning ordinances of the City of Rapid City contain provisions which regulate the zoning and rezoning of property; and

WHEREAS, zoning controls regulate the land uses which can be legally allowed on property within the City; and

WHEREAS, the City of Rapid City and Rapid City Planning Commission are occasionally the applicant to zone newly annexed property or to rezone property which has been previously zoned; and

WHEREAS, the zoning or rezoning of property can alter the land uses which can legally occur on property and may be different from land uses which were previously allowed prior to the City or Planning Commission's action to zone or rezone the property; and

WHEREAS, the Common Council of the City of Rapid City has determined it is in the City's best interests to provide landowners whose property is being zoned or rezoned by the City or Planning Commission with additional notice, including a disclosure statement, which informs the landowner of the potential impact of the change in zoning on the landowner's property along with informing them of the fact that the change may result in the imposition of certain fees, hearings and other processes which may impact their ability to use their property as they desire by amending Section 17.54.040 of the Rapid City Municipal Code (RCMC).

NOW THEREFORE, BE IT ORDAINED, by the City of Rapid City that Section 17.54.040 of the RCMC is hereby amended to read as follows:

**17.54.040 Amendments.**

The regulations, restrictions, boundaries and options set forth in this title may be amended, supplemented, revised or repealed from time to time as conditions warrant, subject to the following conditions:

- A. *Application.* An application for a proposed amendment shall be filed with the city's Planning and Zoning Commission. Amendments may be instituted by the property owner or his or her designated representative, by an appropriate governmental agency, or by the city's Planning and Zoning Commission.

For Rezone applications submitted by the City of Rapid City or the City's Planning and Zoning Commission, the following additional application requirements shall apply to any rezoning other than an initial designation of property as No Use district:

1. The property owner's signature as set forth on the Director of Equalization's records must be included on a disclosure statement provided by the City informing the property owner(s) of the property proposed for rezoning.
2. The disclosure statement shall provide a written accounting of the estimates for any costs of subsequent zoning applications included but not limited to:
  - a. Application fees for any subsequent rezoning, conditional use permit, planned development, comprehensive plan or variance applications including the mailing costs;
  - b. A statement of any requirement for a professional to complete drawings, plans or studies necessary to submit such subsequent applications and shall advise the property owner(s) to seek information regarding the costs of such possible professional fees from said professionals;
  - c. The sign deposit fees;
  - d. The time frames for processing any subsequent applications, the requirement for public hearings and a disclosure that the property owner(s) may not prevail in such applications or hearings; and,
  - e. A statement of the current use of the property, whether or not that use will be allowed under the zoning district regulations for the proposed district, any provisions for the existing use being a legal non-conforming or "grandfathered" use and the circumstances that result in the legal non-conforming status being lost.
3. The City shall make a good faith effort to obtain the signatures on the disclosure statement as provided above by sending such disclosure statement to the property owner(s) certified, return receipt requested at least twice with a minimum of 21 business days between the two mailings. If the property owner(s) do not respond within 21 business days of the second mailing, the City of Rapid City or the City's Planning and Zoning Commission may proceed with submitting the application. For the purposes of this section, the lack of a response within the described time frame shall be deemed the same as signing the disclosure statement. Nothing herein shall preclude the governing body from taking such action on the application as deemed appropriate once the required notification procedures described herein have been met.

B. *Public hearings.* Upon application, the city's Planning and Zoning Commission shall hold a public hearing thereon, subject to the same notice requirements as set

forth herein for the Common Council, and then submit its report to the Common Council. The proposed amendment shall be adopted as other ordinances, except that the city's Finance Officer shall cause to be published once a week for at least 2 successive weeks prior to the date of the adoption of the ordinance, a notice of the time and place when and where all persons interested shall be given a full, fair and complete hearing.

- C. *Time limit and notification.* All proposed amendments shall be decided by the Common Council within 60 days of the public hearing.
- D. *Standards for amendments.* A proposed amendment shall be considered on its own merits using the following criteria as a guide:
  - 1. *Text or map amendments.* The following conditions shall be met for all amendments:
    - a. The proposed amendments shall be necessary because of substantially changed or changing conditions of the area and districts affected, or in the city generally.
    - b. The proposed amendments shall be consistent with the intent and purposes of this title.
    - c. The proposed amendment shall not adversely affect any other part of the city, nor shall any direct or indirect adverse effects result from the amendment.
    - d. The proposed amendments shall be consistent with and not in conflict with the development plan of Rapid City including any of its elements, major road plan, land use plan, community facilities plan and others.
  - 2. *Corrections.* Errors or oversights as may be found in this title as originally adopted shall be corrected under the normal amendment procedure.
- E. *Rezoning—Posting and maintenance of signs.* In addition to the preceding requirements, the petitioner for rezoning, or his or her agent or agents, shall be required to post and maintain an approved sign or signs on the property included in the rezoning petition, the sign or signs to be posted at least 7 calendar days prior to the Planning Commission meeting at which the petition shall be considered and to be maintained continuously until the rezoning petition has been finally approved or rejected by the Common Council or withdrawn by petition. Approved signs shall be secured from the Planning Engineer who shall require a reasonable deposit sufficient to cover the cost of replacement of the sign or signs and who shall determine the number and location of the sign or signs to be posted on the property included in the rezoning petition. This section shall not apply to zoning amendments instituted by the city's Planning and Zoning Commission.
- F. *Rezoning—Mailing of certified notice.* In addition to the preceding requirements, the petitioner for rezoning, or his or her designated agent shall include postal

registration data that substantiates petitioner's good faith attempt to mail certified letters with return receipts to all property owners within 250 feet, inclusive of dedicated ways of the area described. The certified mailings shall include the date set for the hearing before the city's Planning and Zoning Commission and contemplated uses, and shall be on a form provided by the Planning Commission. This section shall not apply to zoning amendments instituted by the city's Planning and Zoning Commission.

- G. *Fees.* A fee of \$250 shall be paid at the time of filing any application for a zoning amendment.

CITY OF RAPID CITY

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Alan Hanks, Mayor

ATTEST:

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Pauline Sumption, Finance Officer

(SEAL)

First Reading:  
Second Reading:  
Published:  
Effective: