

ORDINANCE NO. 5811

AN ORDINANCE SPECIFYING WHO MAY INSTITUTE AMENDMENTS TO THE ZONING OF PROPERTY AND THE COMPREHENSIVE PLAN BY AMENDING SECTION 17.54.040 OF THE RAPID CITY MUNICIPAL CODE.

WHEREAS, the City has adopted comprehensive ordinances regulating the use of land within the City; and

WHEREAS, changes to the land use regulations applicable to a specific parcel of property can have a significant impact on what landowners are allowed to do with their property; and

WHEREAS, the City appointed a committee, commonly referred to as the Second Floor Committee (the “Committee”), to review the City’s planning and development review process; and

WHEREAS, the Committee has recommended a formal process be in place pertaining to changes made to property which may impact specific parcels; and

WHEREAS, the Common Council of the City of Rapid City has adopted 17.54.065 to the Rapid City Municipal Code, which requires that in most instances the property owner or their authorized representative must sign an application submitted pursuant to Title 17 of the Rapid City Municipal Code; and

WHEREAS, there are instances in which entities other than the property owner institute zoning or comprehensive plan amendments under Section 17.54.040 of the Rapid City Municipal Code, namely an appropriate governmental agency, including the City’s Planning and Zoning Commission; and

WHEREAS, the City Council has reviewed the recommendation of the Second Floor Committee and finds that it is in the best interests of the City to implement the recommendation that Section 17.54.040 of the Rapid City Municipal Code be amended to specify who may institute zoning and comprehensive plan amendments.

NOW THEREFORE, BE IT ORDAINED, by the City of Rapid City that Section 17.54.040 of the Rapid City Municipal Code be 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The regulations, restrictions, boundaries and options set forth in this title may be amended, supplemented, revised or repealed from time to time as conditions warrant, subject to the following conditions: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 zoning or comprehensive plan 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 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 2 mailings. If the property owner(s) do not respond within 21 business days of the second mailing, the 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

Mayor

ATTEST:

Finance Officer
(SEAL)

First Reading:
Second Reading:
Published:
Effective: