

ZONING BOARD OF ADJUSTMENT
OCTOBER 8, 2015

I. STATEMENT OF FACTS

In 2005, Epic began constructing four electronic billboards without first requesting building permits. When the City's Building Inspector, Brad Solon, became aware of this construction he issued stop work orders. Epic appealed this decision to the Sign Code Board of Appeals, arguing that building permits were not required, as their signs fell under the public purpose sign exemption in the then-existing Rapid City Municipal Code. See Exhibit A, § 15.28.080 B.10. The City argued that Epic is a for-profit business, and therefore no public purpose existed. Without a public purpose, the public purpose exemption was inapplicable. The Sign Code Board of Appeals upheld the Building Inspector's decision.

Epic appealed the matter to the City Council and argued that it would be unfair to only allow city entities to use the public purpose exemption in the Code. While the City argued that Epic's purpose was profit, rather than public benefit, Epic's then-attorney Mike Reynolds pointed out that the ordinance did not say there can't be more than one purpose, such as profit. Epic argued that because they would provide advertising to local non-profits, there was a public purpose, and any other business purpose they may have was irrelevant. It should be noted that at that time, public purpose signs were allowed to have animation.

On July 18, 2005, the City Council approved Epic's signs as public purpose signs, overturning the decision of the Sign Code Board of Appeals, on the condition that Epic devote 12 minutes of every hour to public purpose advertising. Public purpose advertising was not defined. There was no discussion of the use of animation at this meeting. See Exhibit B.

On October 18, 2010, the Ad Hoc Sign Code Revision Task Force was created at a regularly scheduled City Council meeting. The task force met 17 times over the next year and a half and developed several recommendations for revisions to the sign code. Among them, the Task Force recommended that full motion be prohibited on *all* signs, including existing public purpose signs. See Exhibit C, Page 2, #2.

In July 2012, the sign code was amended to specifically prohibit animation and full-motion, including on public purpose signs. See Exhibit D, § 15.28.050 A. The current sign code retains this prohibition. See Exhibit E, § 17.50.080 D.1. After receiving complaints that Epic was allowing advertisements with full-motion on its signs, Code Enforcement verified that this was in fact the case. On June 2, 2015, the City Attorney's office sent Epic written notification of the violations and demanded an immediate cessation of the use of full-motion video on all Epic's signs. See Exhibit F. On June 22, the City sent Epic a second notice of violation, stating that criminal citations would be issued beginning on June 29th. See Exhibit G. Epic, through their attorney, then notified the City of their intention to appeal this determination of a sign code violation to the Zoning Board of Adjustment, and the City has agreed to stay enforcement pending this appeal.

II. ANALYSIS

South Dakota Codified Laws Chapter 11-4 gives Rapid City the authority for municipal planning and zoning. Specifically, SDCL 11-8-4 requires grants the City Council power to amend its ordinances, provided proper notice is given, and that the amendments are presented to Council for approval under the same conditions and procedures as the original ordinance.

In this case, it is clear that full-motion video was once allowable on public purpose signs. It is also clear that in 2005, the signs at issue were considered public purpose signs. In 2005, the violations at issue today were indeed legal. However, in 2012, Council properly amended to the sign code to prohibit full-motion video, citing safety concerns. It was well within their power to make such amendments, and all statutorily-required procedures were followed. It is evident from the Ad Hoc Sign Code Revision Task Force's report that public purpose signs were specifically considered as part of this revision. From that point forward, Epic had no legal right to use full-motion video. Thus, such use is now a clear violation of the current sign code.

At this time, the City is unaware of any arguments Epic may have for the legality of their use of full-motion video. Upon hearing such arguments, the City may have further comments.

III. STAFF RECOMMENDATION

For the reasons stated above, staff recommends that the Zoning Board of Appeals uphold the determination that Epic's use of full-motion video is a violation of the sign code and must cease immediately.

351
4-19-04
(Sign Building Permit)
AW

ORDINANCE NO. 4030

AN ORDINANCE TO MODIFY THE REGULATION OF SIGNS WITHIN THE CITY OF RAPID CITY BY AMENDING SECTION 15.28.080 OF THE RAPID CITY MUNICIPAL CODE

WHEREAS, the City of Rapid City has adopted a sign code to regulate the construction and placement of signs within the City; and

WHEREAS, Section 15.28.080 of the Rapid City Municipal Code lists exceptions to the requirements for obtaining a sign building permit; and

WHEREAS, the City of Rapid City deems it to be in the City's best interest to amend certain provisions of Section 15.28.080.

NOW THEREFORE BE IT ORDAINED by the City of Rapid City that Section 15.28.080 of the Rapid City Municipal Code be and hereby is amended to read as follows:

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.
3. No new off-premise sign shall be permitted unless the applicant has first obtained an off-premise sign license as required by Section 15.28.060 of this code.

B. Exemptions. The following types of signs and activities are exempt from the provisions

15.28.080(A):

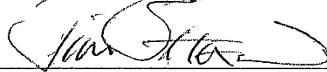
1. Changing of the advertising copy or message, the painting, maintenance and or repair of an existing lawful sign so long as structural changes are not made and except when:
 - a. The use of the premises changes from one Standard Industrial Classification (SIC) two-digit code to another, and/or
 - b. Signs placed in a designated National Register Historic District or on a designated National Register building or structure,

2. Construction Signs. One sign shall be allowed per lot. The sign shall not exceed thirty-two square feet in area and shall not be erected until a building permit has been issued. The sign shall be removed within fourteen 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, which may be of any type, number, area, height above grade, location, illumination, or animation;
11. Real estate signs, subject to the following restrictions:
 - a. Residentially Zoned Lots Or Parcels.
 - i. Less Than One Acre. One sign per street frontage not to exceed six square feet per sign.
 - ii. At Least One Acre But Not Greater Than Five Acres. One sign per street frontage not to exceed thirty-two square feet per sign.
 - iii. Greater Than Five Acres But Less Than Ten Acres. Two signs not to exceed thirty-two square feet per sign, or one sign not to exceed sixty-four square feet.
 - iv. Ten Acres Or More. Three signs not to exceed thirty-two square feet per sign, or two signs not to exceed forty-eight square feet, or one sign not to exceed ninety-six square feet.
 - b. All Other Zoned Lots Or Parcels.
 - i. Less Than One Acre. One sign per street frontage not to exceed thirty-two square feet per sign.

- ii. At Least One Acre But Not Greater Than Five Acres. One sign per street frontage not to exceed sixty-four square feet per sign.
- iii. Greater Than Five Acres But Less Than Ten Acres. Two signs not to exceed sixty-four square feet per sign, or one sign not to exceed one hundred twenty-eight square feet.
- iv. Ten Acres Or More. Three signs not to exceed sixty-four square feet per sign, or two signs not to exceed one hundred twenty-eight 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 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 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 twenty-four 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:
 - i. One sign per complex not to exceed thirty-two square feet,
 - ii. One sign per model not to exceed six square feet,
 - iii. Two traffic direction signs, not to exceed four square feet each, and
 - iv. 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:
 - i. A maximum of four signs are allowed per open house,
 - ii. Signs may be put up one hour before opening and must be removed one hour after closing the open house,
 - iii. Landowner permission is required before a sign may be placed on their property, and
 - iv. 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:
 - i. The size shall not exceed thirty-two square feet;
 - ii. The height of the sign shall not exceed eight feet;

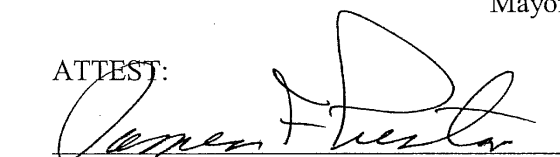
- iii. Signs shall not be placed within a required sight triangle or a required parking area;
- iv. Signs may be placed fifteen days prior to an event and shall be removed within five days of the termination of the event. (Ord. 3951 (part), 2003; Ord. 3813 (part), 2002)

CITY OF RAPID CITY



Mayor

ATTEST:



Finance Officer

(SEAL)

First Reading: April 5, 2004
Second Reading: April 19, 2004
Published: April 24, 2004
Effective: May 14, 2004

PROCEEDINGS OF THE CITY COUNCIL
Rapid City, South Dakota

July 18, 2005

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Rapid City was held at the City/School Administration Center in Rapid City, South Dakota on Monday, July 18, 2005 at 7:00 P.M.

The following members were present: Mayor Jim Shaw and the following Alderpersons: Mike Schumacher, Ray Hadley, Karen Olson, Bill Okrepkie, Tom Johnson, Ron Kroeger, Deb Hadcock, Bob Hurlbut, Malcom Chapman and Sam Kooiker. The following Alderpersons arrived during the course of the meeting: None; and the following were absent: None.

Staff members present included Finance Officer Jim Preston, City Attorney Jason Green, Growth Management Director Marcia Elkins, Fire Chief Gary Shepherd, Police Chief Craig Tieszen, Parks and Recreation Director Jerry Cole and Administrative Assistant Jackie Gerry.

APPROVE MINUTES

Hadley moved, second by Olson and carried to approve the minutes of July 5, 2005 and correct the minutes of June 22, 2005 reflecting a correct bid award amount of \$197,850.00 to Hills Materials Company for STCM05-1455, North 39th St & Clover.

ADOPTION OF THE AGENDA

The following items were added to the agenda:

- Consider agenda item No. 10 after Executive Session
- Consider agenda item No. 67 after Executive Session
- Mayor's Appointments to include the Journey Museum Board, Historic Sign Board, Sign Code Board of Appeals, Historic Preservation Commission and Floodplain Boundary Policy Committee
- Appointment to the Landfill Task Force, Alderman Kooiker
- Ward Two Task Force, Aldermen Kooiker and Hadcock

Chapman moved, second by Hurlbut and carried to adopt the agenda as amended.

AWARDS AND RECOGNITIONS

Mayor Shaw presented the Veteran of the Month for July 2005 to Walter Joynt and recognized his efforts and dedication to the service of his country.

Mayor Shaw presented a Certificate of Recognition to Steve Allender for his 20 years in the Police Dept.; Sue Fox for her 25 years in the Police Dept.; Daniel Goodart for his 20 years in the Fire Dept.; and Gary Garner for his 20 years in the Parks Dept. and expressed his appreciation to them for their outstanding service to the City.

GENERAL PUBLIC COMMENT

Kurt Solay, 1730 Lampert Court expressed his appreciation to the Rapid City Fire Department for their efforts during the recent Skyline Drive fire.

Jeff Partridge addressed the Council on the 2012 projects briefly outlining the recent 2012 process and recommendations made to fund selected projects, and encouraged the Council to move forward on those project recommendations in an expedient manner.

PUBLIC HEARINGS

The Mayor presented No. CC060605-04, Epic Outdoor Advertising appeal of the Sign Code Board of Appeals' decision continued from the June 6, 2005 Council proceedings. Assistant City Attorney Landeen explained the basis of the appeal is to determine whether the Building Official's action to "Red Tag" (Stop Work Order) the construction of several electronic reader boards (billboards) by Epic Outdoor Advertising based on a violation under the City's code. Epic Outdoor Advertising asserts the signs are legal under the Public Purpose Exception that was added to the City code; and that certain groups within Rapid City had authorized these signs for public purpose. An appeal was taken up by the Sign Code Board of Appeals, who upheld City staff's determination. The appeal is now before the City Council for its determination of whether or not these signs fit under the Public Purpose Exception. The task of the City Council is to interpret the meaning of the section of the City code that allows for the Public Purpose Exception, and whether it applies to Epic Outdoor Advertising's assertion. Should the City Council decide the Public Purpose Exception applies the signs as proposed by Epic Outdoor Advertising will be built. Landeen indicated he provided a memo to the Sign Code Board of Appeals stating staff's position, that while the ordinance may be ambiguous as to who has specific authority to authorize signs for public purpose, it does make clear that the signs must be specifically authorized. Landeen explained the attorney for Epic Outdoor Advertising argues that rules of statutory construction require that any ambiguous language be resolved in favor of Epic Outdoor Advertising, because the City of Rapid City is the party that drafted the ordinance. Landeen suggested exceptions to the General Provisions of an ordinance must be strictly, but reasonably construed. Exceptions extend only as far as the language fairly allows with all doubt being resolved in favor of the General Provision. The General Provision, in this case, is that all signs being constructed within the City are required to obtain a Sign Building Permit. Landeen explained the intent of the Sign Ordinance is to control and regulate the signs within the City, and to limit the amount of off-premise advertising. Landeen suggested that if an applicant can decide, on their own, that they are entitled to a Public Purpose Exception, then essentially there would be no need for a Sign Building Permit. He pointed out that in all the other exceptions that are included under this section of the Code, the City of Rapid City is the party that makes the determination of whether an exception applies. He indicated Epic Outdoor Advertising is asking the City Council to determine that the applicant can grant their own exception to the Sign Code, simply because they went to a board and the board approved advertising on this sign. Landeen cited the Civic Center signs and suggested that in the absence of any of the advertisement on it, it serves a public purpose. Landeen urged the City Council to find that the Epic Outdoor Advertising signs were not permitted under the Public Purpose Exception. He also explained that when the City Council adopted the amendments to the exception, the language in the ordinance made it retroactive. City Attorney Green cited Provision 1.04.030 of the Rapid City Municipal Code that describes how to interpret the City's ordinances. The provisions of this code shall be liberally construed to effect the purposes expressed therein or implied from the expression thereof. In case of doubt or ambiguity in the meaning of such provisions, the general

shall yield to the particular. Reference for interpretation and construction shall tend to further the accomplishment of the elimination of the particular mischiefs for which the provisions were enacted. Green explained that the ordinance requires the City Council to interpret them in favor of eliminating the mischief, but favor the enforcement of the ordinance.

Alderman Kooiker suggested this discussion has been generated because of the Civic Center sign. He read from a letter from the Assistant Attorney General stating that the Civic Center sign is located next to a State highway; therefore it violates Chapter 31-29-63 Subsections 3 and 4. He read that these enforcement responsibilities are not only mandated by State law, but are also mandated by an agreement between the State and Federal Governments. The State's failure to effectively control billboards in compliance with this agreement can result in the State's loss of ten percent of its federal highway funds. Officials from the Federal Highway Administration have requested the State take action to bring this sign into compliance with legal requirements. Kooiker question whether any of the signs, proposed by Epic Outdoor Advertising, are located along a State highway. Landeen explained the problem with the Civic Center sign is that it is not located in their area that is currently zoned commercial. Therefore, it can not display off-premise advertising; and the City of Rapid City is in discussions with the State to bring the sign into compliance with the State statute.

Brendan Casey, Owner of Epic Outdoor Advertising indicated they believe they are in full compliance with Chapter 31-29 regarding all their proposed locations for the electronic reader boards. Casey asked the City Council to remove the Stop Work Orders for the four sign poles in various locations in Rapid City. He indicated they also believe they are in full compliance with the Rapid City Municipal Code 15.28.080b10, which states, signs required or specifically authorized for a public purpose shall be exempt from permitting. Casey suggested the amendment to the Code is to allow the Civic Center to construct a double faced reader board located in Memorial Park, and put up the wall signs above each Civic Center entrance, and the many banners which are now located on the light poles around the Civic Center parking lots. Casey indicated he did not think the Sign Code was fair to business owners wishing to advertise or to landowners; and suggested the Sign Code would legislate a monopoly to Lamar Outdoor Advertising.

Michael Reynolds, attorney for Epic Outdoor Advertising outlined their argument, noting there were only three voting members on the Sign Code Board of Appeals and one ruled in favor of Epic Outdoor Advertising, the second supported the position of City staff, while the last member believed the issue too complicated and voted No. Reynolds suggested the public purpose is an important component needing more discussion; and the tourism industry is a critical component to the concept of public purpose. Reynolds pointed out that there is a profit component for the company and suggested this is a win / win situation for the company and the community of Rapid City because it furthers the economic welfare and prosperity of Rapid City and the civic and charitable organizations. Reynolds indicated the operative code section, as it existed at the time Epic Outdoor Advertising started construction, says a party is exempt from the permit requirements if the signs are specifically authorized for a public purpose. He indicated this provision does not say who is to specifically authorize, and this provision does not say what a public purpose is and who makes that determination. He suggested their attempt is to further the public purpose and enhance sponsorships for advertising with their own signs in the same fashion as the Civic Center. Reynolds indicated Epic Outdoor Advertising will utilize the signs to promote public, charitable, and civic programs and events such as the Civic Center, the Journey Museum, Convention and Visitor Bureau, Rapid City Area Hospitality, and others like Post 22,

Post 320 and any civic event not currently being advertised. Reynolds noted a zero cost to the City of Rapid City, or to the civic or charitable organizations. He explained that the cost to Epic Outdoor Advertising to do the construction of these signs is in excessive One Million Dollars, and the cost will be defrayed by using private sponsors or private advertisers. He pointed out Epic Outdoor Advertising signs are throughout the City, but not in the Memorial Park, which is currently an issue with the Civic Center sign. Reynolds indicated the question is who can authorize, and suggested the Civic Center Board authorized itself to put up their own sign, and no party in City Hall specifically authorized the sign. He indicated that Epic Outdoor Advertising obtained a broader, specific authorization from the Rapid City Area Hospitality Association, Black Hills Family Channel and the landowners, which is the DM&E Railroad Company, who owns the land where these signs will be placed. Reynolds explained the underlying purpose of the signs is to promote public events and having private sponsorships does not change the underlying promotion of the public interest.

Johnson moved, second by Olson to allow for ten more minutes of public comment regarding this appeal. Motion carried upon a roll call vote, with the following voting AYE: Schumacher, Olson, Johnson, Kroeger, Hurlbut and Chapman; NO: Hadley, Okrepkie, Hadcock and Kooiker. Discussion continued. Reynolds listed the sign locations for Epic Outdoor Advertising as Omaha Street, East North Street, the Gap, and St. Patrick Street. He pointed out that Epic Outdoor Advertising has followed the expressed language of the exemption and will do whatever the City proposes with regard to furthering the public interest.

Sean Casey, Owner of Epic Outdoor Advertising indicated that he is keenly aware of the need to put heads on beds in Rapid City and that Governor Rounds and Mayor Shaw have made tourism a top priority for the State and for Rapid City. He suggested that outdoor advertising is a clean industry that requires very little infrastructure and returns Nine Dollars for every One Dollar spent in marketing. He explained there is effectively one billboard company that has locations and coverage in Rapid City and this is not a local billboard company. He reported Lamar Advertising owns ninety percent of the billboard space in Rapid City. Casey explained that all of the advertising avenues - radio, television, newspaper and billboards have costs for production, costs of placement, and a lead time that adds to the difficulty of getting the message out. The electronic reader boards are in four locations and can be changed instantly through the internet and will cost the City nothing. Casey pointed out that Civic Center events will be promoted throughout the town on multiple electronic faces; and the Journey Museum desperately needs help directing visitors to this museum. He also pointed out that all the structures are in industrial areas, not in residential areas or public parks. Ray Summers, Executive Director of the Journey Museum indicated that in the event these signs are made available for public announcements, the Journey Museum would definitely take advantage the opportunity to inform the public about the resources available at the museum.

Hurlbut moved, second by Hadley to overturn the decision of the Sign Code Board of Appeals relating to Epic Outdoor Advertising. Discussion continued. Responding to a request from Alderman Johnson, Reynolds explained the DM&E Railroad Company and the Rapid City Area Hospitality Association specifically authorized the signs and offered the following resolution adopted by the Rapid City Area Hospitality Association:

RESOLUTION

Whereas, the purpose of the Rapid City Area Hospitality Association is to help the community by increasing visitation to the Rapid City area and assisting visitors traveling through the city as well as to area attractions and events; and

Whereas, the promotion of all Rapid City Civic Center events, Rapid City Area Hospitality events, and Rapid City non-profit events for no charge to the association or city and in a efficient manner benefits the community as a whole; and

Whereas, animated signs should only be placed in commercial areas and not in public parks, residential areas, or sites designated to memorialize Rapid City's flood victims or veterans; and

Whereas, informing visitors of parks, events and attractions increased the length of time visitors stay in the area and increased the city sales taxes collected with minimal burden on city services and infrastructure;

Whereas, allowing worthwhile non-profit organizations free posting of events and charitable fund drives is beneficial to the community as a whole;

Now, therefore, the Rapid City Area Hospitality resolves as follows:

The Rapid City Area Hospitality Association specifically authorizes Epic Outdoor Advertising LLP to proceed with their plans to construct multiple electronic displays in the Rapid City area for the public purpose and the RCAHA will be allowed to advertise Rapid City events and messages for no charge to the association as long as these signs exist.

Resolved the 25th day of March, 2005.

Rapid City area hospitality association

By

Its President

The Rapid City Area Hospitality Association will be allowed to post their messages promotions and event free of charge for as long as the signs are in existence. The association will not be responsible financially or otherwise for: purchase, installation, ongoing maintenance, creating graphics, delivering graphics, litigation, or any liability involved with these signs. All of the preceding will be the responsibility of Epic Outdoor Advertising, LLP. Funding for these signs will be obtained through sponsor advertising and donations from Epic Outdoor Advertising, LLP.

Alderman Olson indicated her concern is a broader concern for the community as a whole and the position of the City as a major tourism community in the Black Hills area. Olson indicated the discussion seems to be moving in a direction that totally ignores the increasing trend which is that signage is smaller, signage is lower, and signage is on-premise. She suggested the City Council needed to remind themselves that the face the City present needs to be the very best in terms of a beautiful aesthetics. Responding to a question from Alderman Kroeger, Brenden Casey indicated they are unable to determine the percentage of time that could be dedicated to running public service announcements. Kroeger indicated his concern is that at some point in time the public service will probably amount to five minutes a day and suggested a specific

amount of time during the day be allowed for public service announcement; otherwise what is said today may not be true tomorrow. Landeen reminded the City Council that the discussion should be about a sign authorized for public purpose, not the messages on the sign. If the sign itself serves a public purpose then you do not need to answer questions like how much of the advertising on the sign is going to be dedicated to public services messages, because the sign itself serves the public purpose. Alderman Hadcock expressed support for the signs, but suggested this is a fairness issue. If the City of Rapid City is allowed to do this, they want the same thing done for them. Hadcock pointed out the signs are being constructed in a Light Industrial area and Epic Outdoor Advertising is putting them up responsibly. Alderman Chapman suggested the larger issue is the number of signs in the community; and indicated this is a matter of fairness and Epic Outdoor Advertising has followed the same procedure followed by the Civic Center. Chapman also raised the question of how much time would be allotted for public service announcements. Alderman Kooiker called the question, no objection was offered but discussion continued with comments from City Attorney Green, who reminded the City Council there was one other sign that was put in the community under this exception, and that is the School of Mines. Green suggested the City Council, if the decision is to authorize the signs, specify how much time has to be dedicated to public purpose and public advertising.

Johnson moved, second by Hurlbut to amend the motion to stipulate that twenty percent should be dedicated for public use, Discussion continued. Response to Alderman Hurlbut on the percentage being imposed, Reynolds pointed out that there is no restriction on the Civic Center, and this requirement is imposing something on another citizen that the City is not imposing on the Civic Center. Hurlbut suggested this issue of dedication of time for public service announcements should be done by ordinance. Green responding to a concern from Alderman Chapman on how the City intend to measure the twenty percent indicated there is a City staff member who regularly monitors the billboards. Alderman Olson spoke of the FCC requirements for public purpose advertising on television and radio and explained those advertisements are often relegated to midnight to two o'clock in the morning, which is for all practical purposes advertising that is non-effect.

With the consent of the second to his motion offering an amendment, Johnson restated the amendment that twenty percent would represent twelve minutes out of every hour. Alderman Kooiker called the question, there being no objection a vote was taken on the amendment. Amendment carried with the following voting AYE: Hadley, Olson, Okrepkie, Johnson, Kroeger, Hurlbut, Chapman and Kooiker; NO: Hadcock and Schumacher.

Upon a vote being taken on the motion as amended, motion carried with the following voting AYE: Okrepkie, Johnson, Kroeger, Hadcock, Hurlbut, Chapman, Kooiker, Schumacher, Hadley; NO: Olson.

Johnson moved, second by Hadcock and carried to Authorize the Mayor and Finance Officer to sign the waiver of right to protest a future assessment for the installation of sidewalk, street light conduit, water and sewer along Roosevelt Avenue and to install street light conduit along West Boulevard as they abut Lots 3, 4, 6 and the north 81 feet of Lot 5, Ridge Park Addition No. 3, Section 11, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota. (05SV039)

The Mayor presented No. 05SV039, a request by Fisk Land Surveying for Stanford Adelstein for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, sidewalks, water, sewer and additional pavement as per**

Chapter 16.16 of the Rapid City Municipal Code on Lots 3, 4, 6 and the north 81 feet of Lot 5, Ridge Park Addition No. 3, Section 11, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lots 3R and 5R, Ridge Park Addition No. 3, Section 11, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located between Roosevelt Avenue and West Boulevard, north of Saint Anne Street and south of Saint Patrick Street. Kroeger moved, second by Hadcock and carried to approve the Variance with the following stipulation: Prior to City Council approval, the applicant sign a waiver of right to protest any future assessment for the improvements.

The Mayor presented No. 05SV040, a request by D.C. Scott Co. for William Morrison for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, sidewalks, water, sewer and pavement as per Chapter 16.16 of the Rapid City Municipal Code** on Lot 1, Lot 2, Lot 3, Lot 4 and Lot 5, Morrison Subdivision, located in the SW1/4 SW1/4, Section 14, T1N, R8E, BHM, Pennington County, South Dakota, legally described as Parcel B, Lot 3, located in the SW1/4 SW1/4, Section 14, T1N, R8E, BHM, Pennington County, South Dakota, located adjacent to the north side of Green Valley Drive between Reservoir Road and Green Field Drive. Johnson moved, second by Hadcock and carried to Deny the Variance without prejudice.

The Mayor presented No. 05CA018, a request by City of Rapid City for an **Amendment to the Comprehensive Plan amending the Major Street Plan by eliminating and realigning several collector and arterial roads** on Sections 23, 24, 25, 26, 34, 35 and 36 in T1N, R7E, BHM, Pennington County, South Dakota, and Sections 19, 29, 30, 31 and 32, T1N, R8E, BHM, Pennington County, South Dakota, and Sections 1, 2, 3, 11 and 12, T1S, R7E, BHM, Pennington County, South Dakota, and Sections 5, 6, 7, 8, 17 and 18, T1S, R8E, BHM, Pennington County, South Dakota, located south of Minnesota Street, north of Spring Creek Road, east of US Highway 16 and west of SD Highway 79. Hurlbut moved, second by Hadcock and carried to continue to the August 1, 2005 Council meeting.

LEGAL & FINANCE COMMITTEE ITEMS

Chapman moved, second by Hadcock and carried to (No. LF071305-01) refer a request by Edward and Arlene Holcomb to park recreational vehicle at 801 Holcomb Avenue to the Planning Commission for possible amendments to the zoning ordinance and bring back a recommendation to the September 14, 2005, Legal and Finance Committee meeting, and to take no enforcement action prior to that time.

The next agenda item considered is No. CC071805-01, a Resolution Establishing the City's Liability Insurance Deductible Amount as the Maximum Amount of Indemnification for City Employees. The following Resolution was introduced, read and Kroeger moved its adoption:

RESOLUTION ESTABLISHING THE CITY'S LIABILITY INSURANCE
DEDUCTIBLE AMOUNT AS THE MAXIMUM AMOUNT
OF INDEMNIFICATION FOR CITY EMPLOYEES

WHEREAS, the City of Rapid City purchases liability insurance coverage for the City and its employees; and

WHEREAS, the City of Rapid City maintains a high deductible on its liability insurance coverage, in essence, treating the coverage as a stop loss policy with the City acting as a self insurer; and

WHEREAS, SDCL § 3-19-2 sets a maximum amount for indemnification of City employees by the City unless changed by the governing body of a municipality; and

WHEREAS, the City of Rapid City incurs additional cost to purchase liability coverage for employees as a result of the provisions of SDCL § 3-19-2; and

WHEREAS, the City of Rapid City has determined that it is in the best interests of the City of Rapid City to set the maximum indemnification amount in an amount equal to the deductible of the City's liability policy.

NOW THEREFORE BE IT RESOLVED by the City of Rapid City that the City of Rapid City will indemnify employees to the extent allowed by SDCL § 3-19-1.

BE IT FURTHER RESOLVED that such indemnification shall not exceed the deductible amount of the primary liability insurance policy providing coverage to the employee.

Dated this 18th day of July, 2005.

ATTEST:
s/ James F. Preston
Finance Officer
(SEAL)

CITY OF RAPID CITY
s/ Jim Shaw, Mayor

The motion for adoption of the Resolution was seconded by Hadcock. The following voted AYE: Schumacher, Hadley, Olson, Okrepkie, Johnson, Kroeger, Hadcock, Hurlbut, Chapman and Kooiker; NO: None; whereupon said Resolution was declared duly passed and adopted.

PUBLIC WORKS COMMITTEE ITEMS

Olson moved, second by Kroeger and carried (No. PW071205-01) to request staff to proceed with phase one of the Deadwood Avenue water supply project and to provide funding options.

Hadley moved (No. PW071205-07) to approve an Initial Resolution setting time and place for hearing on August 15, 2005 for Sixth Street and Hillcrest Drive Water Main Extension, Project No. W05-1521:

INITIAL RESOLUTION
FOR
SIXTH STREET AND HILLCREST DRIVE WATER MAIN EXTENSION
PROJECT NO. W05-1521

BE IT RESOLVED by the City Council of the City of Rapid City, South Dakota, as follows:

1. This Council deems it necessary to improve by installing approximately 260 lineal feet of water main, services and appurtenances located on Sixth Street from Hillcrest Drive to the north serving lots 3 through 6 of Tract O, Hillcrest Addition No. 3., as outlined in the proposed Resolution of Necessity for Sixth Street and Hillcrest Drive Water Main Extension Project W05-1521, which is on file with the Finance Officer. Sixty percent (60%) of the costs for will be assessed to the affected property owners on the front footage basis for the water main extension and appurtenances.
2. This Council will meet at the City/School Administration Center in the City of Rapid City, South Dakota, on Monday the 15th day of August, 2005 at 7:00 P.M. for the purpose of considering any objections to such proposed Resolution of Necessity. The Finance Officer is directed to give notice of such meeting by publishing the time and place of such meeting once each week for two successive weeks in the official newspaper of the City.

Dated this 18th day of July, 2005.

ATTEST:
s/ James F. Preston
Finance Officer
(SEAL)

CITY OF RAPID CITY
s/ Jim Shaw, Mayor

The motion for adoption of the Initial Resolution was seconded by Olson. The following voted AYE: Schumacher, Hadley, Olson, Okrepkie, Johnson, Kroeger, Hadcock, Hurlbut, Chapman and Kooiker; NO: None; whereupon said Initial Resolution was declared duly passed and adopted.

Hadley moved, second by Olson and carried to authorize City staff to apply for Homeland Security Grant money for the following projects: Utility System Master Plan, GIS aerial photography project, mobile command post, New World software upgrades for regional data sharing and other features, C/SAC building security project and Fire Department satellite data link.

GROWTH MANAGEMENT DEPARTMENT ITEMS

The next agenda item considered is No. 05SV041, a request by Sperlich Consulting, Inc. for Walgar Development Corp. for a **Variance to the Subdivision Regulations to waive the requirement to dedicate additional right-of-way and to install street light conduit along Minnesota Street and Fifth Street and to allow a lot twice as long as wide as per Chapter 16.16 of the Rapid City Municipal Code** on Lot 1, Block 2, Minnesota Park Subdivision, Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the N1/2 SE1/4, and a portion of tract B, Robbinsdale Addition No. 10 all located in Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the southeast corner of Minnesota Street and Fifth Street. Hadley moved, second by Olson and carried that the Variance to the Subdivision Regulations to allow a lot twice as long as wide be tabled; that the Variance to the Subdivision Regulations to waive the requirement to provide street light conduit along Fifth Street and Minnesota Street be tabled; and that the Variance to

the Subdivision Regulations to waive the requirement to dedicate additional right-of-way along Minnesota Street be approved.

Kroeger moved, second by Olson and carried to Authorize the Mayor and Finance Officer to sign the waiver of right to protest a future assessment for the installation of a minimum of 40 foot wide paved surface, street light conduit, curb, gutter and sidewalk along Long View Road and to install a minimum 40 foot wide paved surface, street light conduit, curb, gutter and sidewalk along Reservoir Road as they abut a portion of Tract T of Trailwood Village, located in the SE1/4 of the SE1/4, Section 10, T1N, R8E, BHM, Pennington County, South Dakota, more fully described as follows: Commencing at the southeasterly corner of Lot 3 of Block 22, Trailwood Village, Thence, S00°03'09"W, a distance of 346.91 feet to the northeasterly corner of the boundary, and the Point of Beginning; Thence, first course: S00°05'47"W, a distance of 317.18 feet, to the southeasterly corner of said boundary; Thence, second course: S89°49'52"W, a distance of 227.28 feet, to the southwesterly corner of said boundary; Thence, third course: N00°04'24"W, a distance of 199.81 feet, to the northerly corner of said boundary; Thence, fourth course: N65°25'59"W, a distance of 24.18 feet, to the northwesterly corner of said boundary; Thence, fifth course: N00°04'24"E, a distance of 35.04 feet, to the northerly corner of said boundary; Thence, sixth course: S89°55'36"E, a distance of 40.00 feet, to the northeasterly corner of said boundary; Thence, seventh course: N00°04'24"E, a distance of 73.27 feet, to the northerly corner of said boundary; Thence, eighth course: S89°55'36"E, a distance of 209.43 feet, to the northeasterly corner of said boundary, and the Point of Beginning, said parcel contains 1.460 acres more or less. (05SV044)

The next item discussed is No. 05SV044, a request by Sperlich Consulting for Gordon Howie for a **Variance to the Subdivision Regulations to waive the requirement to install street light conduit, curb, gutter and sidewalk along Long View Road, Reservoir Road and the access easements; and to waive the requirement to provide additional pavement and to dedicate a ten foot wide planting screen easement along Long View Road and Reservoir Road; and to dedicate additional Right-of-Way along Long View Road as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 8A, 8B and 8C, Lots 9A and 9B and Lots 10A and 10B, Block 22, Trailwood Village, Section 10, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of Tract T of Trailwood Village, located in the SE1/4 of the SE1/4, Section 10, T1N, R8E, BHM, Pennington County, South Dakota, more fully described as follows: Commencing at the southeasterly corner of Lot 3 of Block 22, Trailwood Village, Thence, S00°03'09"W, a distance of 346.91 feet to the northeasterly corner of the boundary, and the Point of Beginning; Thence, first course: S00°05'47"W, a distance of 317.18 feet, to the southeasterly corner of said boundary; Thence, second course: S89°49'52"W, a distance of 227.28 feet, to the southwesterly corner of said boundary; Thence, third course: N00°04'24"W, a distance of 199.81 feet, to the northerly corner of said boundary; Thence, fourth course: N65°25'59"W, a distance of 24.18 feet, to the northwesterly corner of said boundary; Thence, fifth course: N00°04'24"E, a distance of 35.04 feet, to the northerly corner of said boundary; Thence, sixth course: S89°55'36"E, a distance of 40.00 feet, to the northeasterly corner of said boundary; Thence, seventh course: N00°04'24"E, a distance of 73.27 feet, to the northerly corner of said boundary; Thence, eighth course: S89°55'36"E, a distance of 209.43 feet, to the northeasterly corner of said boundary, and the Point of Beginning, said parcel contains 1.460 acres more or less, located at the northwest corner of the intersection of Long View Road and Reservoir Road. Hadley moved, second by Kroeger to approve the Variance with stipulations. Growth Management Director Elkins responding to a question from Alderman Johnson explained the ten foot widening of additional pavement is on Longview and

Reservoir Roads; and if approved, the applicant will not need to widen the road. Johnson reported the hazards of the narrow road having no shoulders, speeding, and pedestrian use. He suggested with development occurring in this area, now is the time to widen the roads. Based on comments from the County, Elkins explained staff recommended denial but the Planning Commission recommended approval over the objections and recommendations of staff. Elkins reported the County has a road construction project in their plans, and the recommendation of the County was to have the developer cooperate with the County in paying a portion of the project. Elkins indicated that prior to submittal of a Final Plat application; the applicant shall submit surety for a portion of the Reservoir Road/Long View Road intersection improvement project as shown on the Pennington County Highway 2006/2007 street improvement plan.

Substitute motion was made by Johnson, second by Hurlbut to approve the Variance to the Subdivision Regulations to waive the requirement to install a minimum 40 foot wide paved surface, street light conduit, curb, gutter and sidewalk along Long View Road be approved with the following stipulation: 1. Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessments for the improvement. That the Variance to the Subdivision Regulations to waive the requirement to install a minimum 40 foot wide paved surface, street light conduit, curb, gutter and sidewalk along Reservoir Road be approved with the following stipulations: 1. Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessments for the improvement; and, 2. Prior to submittal of a Final Plat application, the applicant shall submit surety for a portion of the Reservoir Road/Long View Road intersection improvement project as shown on the Pennington County Highway 2006/2007 street improvement plan(s). That the Variance to the Subdivision Regulations to waive the requirement to install street light conduit, curb, gutter and sidewalk along the access easement(s) be denied. That the Variance to the Subdivision Regulations to waive the requirement to dedicate a planting screen easement along Reservoir Road and Long View Road be denied. That the Variance to the Subdivision Regulations to waive the requirement to dedicate 17 additional feet of right-of-way in lieu of seven additional feet of right-of way along Long View Road be denied.

Upon a request from Elkins to continue to allow the applicant an opportunity to address the Council, a second substitute motion was made by Okrepkie, second by Hadcock to continue No. 05SV044, a request by Sperlich Consulting for Gordon Howie for a Variance to the Subdivision Regulations to the August 1, 2005 Council meeting. Motion carried.

ORDINANCES & RESOLUTIONS

Ordinance No. 5075 (No. LF062905-08), Authorizing a Special Election in Case of a Vacancy in the Office of Mayor or Alderman by Creating Section 2.08.120 of the Rapid City Municipal Code having passed first reading on July 5, 2005, it was moved by Olson, second by Hadley that the title be read the second time. City Attorney Green offered a clarification of the options explaining the law requires that vacancies be either filled by appointment or by election, not by both. An ordinance enacted by Council on second reading would require an election for all vacancies in either the Office of the Mayor or Office of the City Council. Green indicated the Council could do something different for the Mayor and something different for the Council, such as appointing someone anytime there is a vacancy in the Office of the Mayor and then require an election to fill a vacant seat on the Council or vice versa; but whatever is chosen for one vacancy must be the opposite for the other vacancy. Responding to questions from Alderman Chapman, Green explained if the Council does not enact the ordinance the City is left with the

statutory requirement of appointing someone to fill a vacancy; and outlined the timeframe on the adoption of the ordinance explaining there is a twenty day publication period before the ordinance is effective and upon this date the Notice of an Election could be published, which must be sixty days before the Election. From personal experience, Alderman Hurlbut spoke of the awkwardness of the appointment process, suggested State law should have greater flexibility, and also suggested State law be amended and this would just be a totally separate action that would allow the Council to appoint in the 150 day window during, which if a vacancy comes up within 150 days of the end of the term, the Council would have the option of appointing a temporary replacement. But given the Council can not do both, Hurlbut suggested the Council needed to error on the side of sending this to the people and allowing for a Special Election. Alderman Johnson explained if a vacancy is not declared prior to the 185th day the City will not likely have a Special Election, and a Ward will only have one representative. He pointed out a vacancy in the Office of the Mayor will be filled by the Council President, leaving a Ward with only one representative. Johnson outlined the current process explaining that presently, the Council appoints an Alderman to serve the remaining months of a resigning Alderman until the next election. As such time as the next City Election, even if there is a year remaining on the previous term, there is always an election to fill that remaining year. Essentially the City could have two Aldermen races in one year, the remaining year of an unfilled term and the two year term. Johnson indicated he is looking for enabling legislation which would enable the Council either, depending on the timeframe, to set that election or to appoint. City Attorney Green offered a clarification, explaining that under the current system when an elected official leaves office within the first year of their term, the replacement that is appointed, serves until the next annual municipal election, they do not serve the full term. Alderman Kooiker spoke in favor of the ordinance believing this is an important step forward. Kooiker indicated that City Council offices were different than the School Board, where if they had a vacancy on the School Board, the appointment was not until the next annual election, whereas for a vacancy on the City Council an appointment would serve the remainder of that term. Responding to a question from Alderman Hurlbut on the minimum time to set a Special Election, City Attorney Green indicated the absolute minimum time is 150 days but the City would have to have the vacancy occur, the Council meeting, and publication date at the Journal fall just right in order to hit that window of opportunity. As a practical matter, it is more like 180 days. Alderman Johnson indicated that if a vacancy occurred between January and June, the City is locked out of the election process and there would be no elected official; but if a vacancy occurred between July and December the people could elect the replacement. City Attorney Green explained that if a vacancy occurred in January or February, the statute would prohibit the City from holding a special election, but could be taken up at the General Election if the notification is announced before the deadline.

Substitute motion was made by Johnson to deny second reading. Due to lack of a second, the Chair ruled the substitute motion out of order.

Substitute motion was made by Chapman, second by Olson to continue second reading of Ordinance No. 5075 to the August 1, 2005 Council meeting. Substitute motion carried upon a roll call vote, the following voting AYE: Okrepkie, Johnson, Hadcock, Hurlbut, Chapman, Hadley and Olson; NO: Kooiker and Schumacher.

Ordinance No. 5077 (No. LF071305-07), Regarding Supplemental Appropriation No. 3 for 2005 was introduced. Upon motion made by Chapman, second by Olson and carried, Ordinance 50776 was placed upon its first reading and the title was fully and distinctly read, and second reading set for Monday, August 1, 2005.

Ordinance No. 5076 (No. 05OA005), Establishing the Canyon Lake Overlay Zoning District by Adding Chapter 17.60 to Title 17 of the Rapid City Municipal Code was introduced. Upon motion made by Chapman, second by Olson and carried, Ordinance 5076 was placed upon its first reading and the title was fully and distinctly read, and second reading set for Monday, August 1, 2005.

The Mayor announced the meeting was open for hearing on No. 05RZ044, second reading of **Ordinance No. 5080**, a request by City of Rapid City for a **Rezoning from No Use District to General Commercial District** on Lot C, NE1/4 NW1/4, and Lot X of Lot B, NE1/4 NW1/4, all of Johnson School Subdivision, Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the southwest corner of the intersection of School Drive and Elk Vale Road and adjacent to East Highway 44. Notice of hearing was published in the Rapid City Journal on July 9, 2005 and July 16, 2005. Ordinance 5080 having had the first reading on July 5, 2005, it was moved by Chapman, second by Hurlbut that the title be read the second time. The following voted AYE: Schumacher, Hadley, Olson, Okrepkie, Johnson, Kroeger, Hadcock, Hurlbut, Chapman and Kooiker; NO: None; whereupon the Mayor declared the motion passed and read the title of Ordinance 5080 the second time.

CONTINUED ITEMS CONSENT CALENDAR – Items 20-51

The following items were removed from the Continued Consent Calendar:

29. No. 05FV003 - A request by Jon Dicks for a **Fence Height Exception to allow a six foot four inch high fence within the required 25 foot front yard setback** on Lot A of Lot 14 and the south 20 feet of Lot C of Lot 14, Acre Tract, Section 33, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 430 South Canyon Road.
36. No. 05PL096 - A request by Sperlich Consulting for Lifestyle Homes for a **Preliminary Plat** on Lots 7A and 7B of Block 18, Trailwood Village Subdivision, Section 10, T1N, R8E, BHM, Pennington County, South Dakota, legally described as Lot 7 of Block 18, Trailwood Village Subdivision, Section 10, T1N, R8E, BHM, Pennington County, South Dakota, located between the east side of Savannah Street and the west side of Reservoir Road.
46. No. 05SV023 - A request by Brent Pushing for a **Variance to the Subdivision Regulations to waive the requirement to pave and to reduce the surface width from 24 feet to 16 feet for Sunridge Road as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 1 thru 4, Brentwood Subdivision, Section 25, T2N, R6E, BHM, Rapid City, Pennington County, South Dakota, legally described as the S1/2 NW1/4 SW1/4 SE1/4; S1/2 NE1/4 SW1/4 SE1/4; SW1/4 SW1/4 SE1/4; SE1/4 SW1/4 SE1/4, Section 25, T2N, R6E, BHM, Rapid City, Pennington County, South Dakota, located at the end of Sunridge Road.

Hadley moved, second by Johnson and carried to continue the following items as indicated.

Continue the following items until August 1, 2005:

20. No. 04AN009 - A request by Dream Design International, Inc. for a **Petition for Annexation** on the W1/2 SE1/4 and SE1/4 SE1/4 and N1/2 NW1/4 SW1/4 of Section 35,

- T1N, R7E, BHM, Pennington County, South Dakota, located east of South Highway 16 and south of Sammis Trail.
21. No. 04AN010 - A request by Dream Design International Inc. for a **Petition for Annexation** on the S1/2 NE1/4 SW1/4 of Section 35, T1N, R7E, BHM, Pennington County, South Dakota, located east of South Highway 16 and south of Sammis Trail.
 22. No. 04CA029 - A request by Dream Design International, Inc. for an **Amendment to the Comprehensive Plan to change a Minor Arterial Street to a Collector Street on the Major Street Plan** on the W1/2 SE1/4 and SE1/4 SE1/4 of Section 35, T1N, R7E, BHM, Pennington County, South Dakota, located east of South Highway 16 and south of Sammis Trail.
 23. No. 04PL097 - A request by Dream Design International, Inc. for a **Layout Plat** on Hyland Park Subdivision, Section 35, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as the W1/2 SE1/4 and SE1/4 SE1/4 of Section 35, T1N, R7E, BHM, Pennington County, South Dakota, located east of South Highway 16 and south of Sammis Trail.
 24. No. 04RZ037 - A request by Dream Design International, Inc. for a **Rezoning from No Use District to Low Density Residential District** on a parcel of land located in the W1/2 SE1/4 and the SE1/4SE1/4 of Section 35, T1N, R7E, BHM, Pennington County, South Dakota, located east of South Highway 16 and south of Sammis Trail.
 25. No. 04SV042 - A request by Dream Design International, Inc. for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, pavement, sewer, water and street light conduit; to waive the requirement to dedicate additional right-of-way; and, to allow lots twice as long as wide as per Chapter 16.16 of the Rapid City Municipal Code** on the W1/2 SE1/4 and SE1/4 SE1/4 of Section 35, T1N, R7E, BHM, Pennington County, South Dakota, located east of South Highway 16 and south of Sammis Trail.
 26. No. 05AN006 - A request by Dream Design International for a **Petition for Annexation** on the NE1/4 NW1/4, Section 19, T2N, R8E, BHM, Pennington County, South Dakota, located east of West Nike Road and Country Road.
 27. No. 05AN007 - A request by Sperlich Consulting, Inc. for Doeck, LLC for a **Petition for Annexation** on the NE1/4 SE1/4, Section 13, T2N, R7E, BHM, Pennington County, South Dakota, located at 5230 Haines Avenue.
 28. No. 05CA027 - A request by Dream Design International, Inc. for an **Amendment to the Comprehensive Plan to revise the Major Street Plan** on all of Section 21 and the SW1/4 of Section 22, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located adjacent to the east and west sides of Old Folsom Road and South of existing Jolly Lane.
 30. No. 05PL016 - A request by Ron Blum for Montana-Dakota Utilities Co. for a **Preliminary Plat** on Lot 1, MDU Regulator #83, located in the N1/2 Government Lot 4 of Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as the

unplatted portion of the N1/2 of GL3 and the N1/2 GL4 less Lots H1 & H2, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located south of the intersection of East Anamosa Street and Elk Vale Road on the east side of Elk Vale Road.

31. No. 05PL048 - A request by Dream Design International for a **Layout Plat** on Lots 1-25, Black Hills Estates located in the NE1/4 and SW1/4 NW1/4 Section 24, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the NE1/4 and SW1/4 NW1/4 Section 24, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the intersection of Catron Boulevard and Fifth Street.
32. No. 05PL072 - A request by Renner and Associates for Pete Lien and Sons for a **Preliminary Plat** on the Lien Tract and Lot AR, Keller Subdivision, Section 17, T2N, R7E, BHM, Pennington County, South Dakota., legally described as Lot A, B, and C of Keller Subdivision, Section 17, T2N, R7E, BHM, Pennington County, South Dakota., located at the old Dog Track on North Highway 79.
33. No. 05PL085 - A request by Dream Design International, Inc. for a **Layout Plat** on Parcels 1 through 17, Rushmore Crossing, located in the SW1/4, Section 30 and a portion of the SW1/4, Section 29, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted portion of the SW1/4, lying south of I-90 and north of the Railroad Right-of-Way, less Tract C, Section 30 and a portion of the SW1/4, Section 29, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, located adjacent to Eglin Street between Lacrosse Street and East North Street.
34. No. 05PL086 - A request by Centerline for PLM Land Development, LLC for a **Preliminary Plat** on Lots 1 through 20 located in NE1/4 NW1/4, Section 24, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as the property located in the NE1/4 NW1/4, Section 24, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the intersection of Catron Boulevard and Fifth Street.
35. No. 05PL090 - A request by Sperlich Consulting, Inc. for Doeck, L.L.C. for a **Preliminary Plat** on Lots 1 through 8 and Lots 24 through 61 of Block 1, and Lots 1 through 10 of Block 2, Brookfield Subdivision, located in the NE1/4 of the SE1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the NE1/4 of the SE1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located adjacent to West Nike Road.
37. No. 05PL100 - A request by Dream Design International, Inc. for a **Preliminary Plat** on Lots 1 through 13, Block 11; Lots 1, Block 12; Lots 3 through 8 Block 7; Lots 3 through 9, Block 6; Lots 10 through 19, Block 5, Section 28, T1N, R7E, and Section 29, T1N, R7E, Red Rock Subdivision, BHM, Rapid City, Pennington County, South Dakota, legally described as the NE1/4 NE1/4 and the SE1/4 NE1/4, Section 28, T1N, R7E, and the NW1/4 NW1/4 and the SW1/4 NW1/4, Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located north and west of the northern terminus of Dunsmore Road.
38. No. 05PL112 - A request by Renner & Associates for BB&R Properties for a **Preliminary Plat** on Lot BR of Shoenhard Subdivision and Lot 6R of Mann Subdivision located in the

- N1/2 of SE1/4, Section 33, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot B of Shoenhard Subdivision and Lot 6 of Mann Subdivision, a portion of Vacated Section Line Right-of-Way, and Lot A of NE1/4 of the SE1/4 of Section 33, located in the N1/2 of SE1/4, Section 33, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 3400 West Chicago Street.
39. No. 05PL113 - A request by Dream Design International, Inc. for a **Layout Plat** on E1/2 NE1/4, Section 21, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as E1/2 NE1/4, Section 21, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at 4511 Jolly Lane.
40. No. 05PL116 - A request by Centerline for PLM Land Development, LLC for a **Preliminary Plat** on Lots 5 through 15, Block 2, located in the NE1/4 NW1/4, Section 24, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as the E1/2 N1/2 NW1/4, Section 24, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the northern terminus of Enchantment Road.
41. No. 05PL117 - A request by Boschee Engineering for a **Preliminary Plat** on Lots 1A through 8A, Lots 1B through 8B, Block 5; Lots 1A through 4A, Lots 1B through 4B, Block 7, Stoney Creek Subdivision, dedicated streets located in the SW1/4 NW1/4 and the NW1/4 SW1/4, Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lots 1A and 1B, Block 5, Stoney Creek Subdivision, dedicated streets located in the SW1/4 NW1/4 and the NW1/4 SW1/4, Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located adjacent to the west side of Bendt Drive between Catron Boulevard and Winterset Drive.
42. No. 05PL118 - A request by Sperlich Consulting for Gordon Howie for a **Preliminary Plat** on Lots 8A, 8B, 8C, 9A, 9B, 10A, 10B, Block 22, Trailwood Village, SE1/4 SE1/4, Section 10, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of tract T, Trailwood Village, located in the SE1/4 SE1/4, Section 10, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at the northwest corner of the intersection of Long View Road and Reservoir Road.
43. No. 05RZ042 - A request by Sperlich Consulting, Inc. for Doeck, LLC for a **Rezoning from No Use District to Low Density Residential District** on the NE1/4 SE1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 5230 Haines Avenue.
44. No. 05RZ043 - A request by Dream Design International, Inc. for a **Rezoning from General Agriculture District to Office Commercial District** on Lot 3, Block 1, Fifth Street Office Plaza, legally described as a tract of land located in the S1/2 N1/2 NE1/4, Section 24, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more particularly described as follows: beginning at a point from which the northeast corner of said Section 24, bears N31°57'16"E, a distance of 1105.84 feet; thence N61°16'15"W, a distance of 192.54 feet; thence S27°33'31"W, a distance of 286.44 feet; thence S62°26'29"E, a distance of 192.50 feet; thence N27°33'31"E, a distance of 282.51 feet, to the point of beginning; said tract containing 1.26 acres more or less, located on the north side of 5th Street approximately 1000 feet north of the intersection of Catron Boulevard and 5th Street.

45. No. 05SV016 - A request by Fisk Land Surveying & Consulting Engineers, Inc. for Craig Erickson for a **Variance to the Subdivision Regulations to waive the requirements to install curb, gutter, sidewalk, street light conduit, water and sewer along Radar Hill Road as per Chapter 16.16 of the Rapid City Municipal Code** on Lot 1 of Crystal Dome Subdivision and dedicated right-of-way located in the E1/2 NE1/4 NE1/4 Section 13, T1N, R8E, BHM, Pennington County, South Dakota, legally described as the E1/2 NE1/4 NE1/4 Section 13, T1N, R8E, BHM, Pennington County, South Dakota, located south of Long View Road along Radar Hill Road.
47. No. 05SV027 - A request by Renner & Associates for Pete Lien and Sons for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement as per Chapter 16.16 of the Rapid City Municipal Code** on Lien Tract and Lot AR, Keller Subdivision, Section 17, T2N, R7E, BHM, Pennington County, South Dakota., legally described as Lot A, B, and C of Keller Subdivision, located in the S1/2 of SE1/4, Section 17, T2N, R7E, BHM, Pennington County, South Dakota., located at the old Dog Track on North Highway 79.
48. No. 05SV033 - A request by Sperlich Consulting, Inc. for Doeck, LLC for a **Variance to the Subdivision regulations to allow a lot twice as long as it is wide and to waive the requirement to install sidewalk and street light conduit along Cobalt Drive and to waive the requirement to install street light conduit on Adonia Lane, Wisteria Court and Three Rivers Drive as per Section 16.16 of the Rapid City Municipal Code** on Lots 1 through 8 and Lots 24 through 61 of Block 1, and Lots 1 through 10 of Block 2, Brookfield Subdivision, located in the NE1/4 of the SE1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the NE1/4 of the SE1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located adjacent to West Nike Road.
49. No. 05SV042 - A request by Renner & Associates for BB&R Properties for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along the section line and access easement, and to waive requirements to install street light conduit and sidewalks along West Chicago Street as per Chapter 16.16 of the Rapid City Municipal Code** on Lot BR of Shoenhard Subdivision and Lot 6R of Mann Subdivision located in the N1/2 of SE1/4, Section 33, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot B of Shoenhard Subdivision and Lot 6 of Mann Subdivision, a portion of Vacated Section Line Right-of-Way, and Lot A of NE1/4 of the SE1/4 of Section 33, located in the N1/2 of the SE1/4, Section 33, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 3400 West Chicago Street.

Continue the following items until August 15, 2005:

50. No. 05PL041 - A request by D.C. Scott Co. Land Surveyors for Wayne Householder for a **Preliminary Plat** on Lot AR of Gravatt Subdivision, dedicated Anderson Road right-of-way and dedicated Dunn Road right-of-way and vacated 33' right-of-way located in the SW1/4 NW1/4 and in the N1/2 SW1/4 of Section 24, T1N, R8E, BHM, Pennington County, South Dakota, legally described as Lot A of Gravatt Subdivision located in the SW1/4 NW1/4 and in the N1/2 SW1/4 of Section 24, T1N, R8E, BHM, Pennington County, South Dakota, located at the intersection of Anderson Road and Dunn Road.

51. No. 05SV021 - A request by D.C. Scott Co. Land Surveyors for Wayne Householder for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, sewer and water, and pavement as per Chapter 16.16 of the Rapid City Municipal Code** on Lot AR of Gravatt Subdivision, dedicated Anderson Road right-of-way and dedicated Dunn Road right-of-way and vacated 33' right-of-way located in the SW1/4 NW1/4 and in the N1/2 SW1/4 of Section 24, T1N, R8E, BHM, Pennington County, South Dakota, legally described as Lot A of Gravatt Subdivision located in the SW1/4 NW1/4 and in the N1/2 SW1/4 of Section 24, T1N, R8E, BHM, Pennington County, South Dakota, located at the intersection of Anderson Road and Dunn Road.

End of Continued Items Consent Calendar

The Mayor presented No. 05FV003, a request by Jon Dicks for a **Fence Height Exception to allow a six foot four inch high fence within the required 25 foot front yard setback** on Lot A of Lot 14 and the south 20 feet of Lot C of Lot 14, Acre Tract, Section 33, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 430 South Canyon Road. Growth Management Director Elkins advised that this request was consider at the Public Works Committee and continued. Staff recommended the fence be relocated in such a manner that it would line up with the house, which would be a reduction in the setback, but would provide some buffer between that and the street. Elkins indicated the fence has been constructed without the required permits and is in violation of the setback requirements. Elkins explained the ordinance requirement is a ten foot distance, and the applicant is proposing a site distance triangle, but not in compliance with the adopted standards. Applicant Jon Dicks indicated he has added a site triangle and outlined the site triangle as being five feet to the north and six feet on the east. He explained the adjustment allows a twenty foot line of site from the car to where a pedestrian would be standing on the sidewalk. He indicated the width of sidewalk is five feet and from the point where a pedestrian would see a car backing out to the drive itself, is twelve feet. Dicks is of the opinion that this is an acceptable distance, and requiring him to put in a ten foot site distance triangle creates a burden. Dicks suggested when the fence was built - it was built in good faith. He indicated the fence is located three to four inches from the sidewalk, and asked the Council to approve the fence in it's current location with the adjustment to the site distance triangle. Dicks responding to a concern from Alderman Kooiker indicated he had spoken with his neighbors who offered support of the fence location. Alderman Kooiker expressed concern that the site distance triangle adjustment would not be enough to allow anyone to see a child on bicycle coming down that sidewalk. Responding to Alderman Hadley about front yard setbacks, Elkins explained this is a corner lot with two twenty-five foot front yard setbacks and in that front twenty-five feet, the fence is only to be four feet. Elkins explained the compromise that was originally offered was to reduce that from twenty-five feet down to 11.7 feet and line the fence up with the house. She explained the Committee felt that the applicant should be allowed to keep the fence in it's present location, if the applicant met the site distance triangle for a driveway approach, that being the ten foot. She indicated the applicant is proposing to reduce that by half.

Hadley moved, second by Olson to approve a Fence Height Exception to allow a six foot four inch high fence within the required 25 foot front yard setback on Lot A of Lot 14 and the south 20 feet of Lot C of Lot 14, Acre Tract, Section 33, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 430 South Canyon Road with the stipulation that the applicant observe the ten foot (10') site distance triangle, and that the applicant provide confirmation that

the fence is located on the property and not in the public right-of-way. Discussion continued. Alderman Hurlbut expressed concern about fences being built at this height in front yards, and suggested the site distance triangle is not the only concern the Council should consider. He suggested there are neighborhood aesthetic concerns and the City needs to look at this City-wide.

Substitute motion was made by Hurlbut to continue the Fence Height Exception to the August 1, 2005 Council meeting. Second by Chapman. Alderman Johnson indicated the Council should consider changing the ordinance because variances are continually being sought and granted, and what is good for one neighborhood should be good for all neighborhoods. Upon a vote being taken on the substitute motion, motion carried with Hadley voting NO.

The Mayor presented No. 05PL096, a request by Sperlich Consulting for Lifestyle Homes for a **Preliminary Plat** on Lots 7A and 7B of Block 18, Trailwood Village Subdivision, Section 10, T1N, R8E, BHM, Pennington County, South Dakota, legally described as Lot 7 of Block 18, Trailwood Village Subdivision, Section 10, T1N, R8E, BHM, Pennington County, South Dakota, located between the east side of Savannah Street and the west side of Reservoir Road. Hadley moved, second by Chapman and carried to approve the Preliminary Plat with the following stipulations: 1. Prior to Preliminary Plat approval by the City Council, construction plans for Reservoir Road shall be submitted for review and approval. In particular, the construction plans shall show the construction of curb, gutter, sidewalk and street light conduit along Reservoir Road or a Variance to the Subdivision Regulations shall be obtained; 2. Prior to the Preliminary Plat approval by the City Council, elevations of the existing building pad, foundation and lowest openings on the structure(s) shall be submitted for review and approval to insure that the elevation(s) are above 3130.25. In addition, a note shall be placed on the plat document identifying that the lowest opening of any structure shall be above the elevation of 3130.25; 3. Prior to Preliminary Plat approval by the City Council, a cost estimate of the subdivision improvements shall be submitted for review and approval; and, 4. Upon submittal of a Final Plat application, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid.

The Mayor presented No. 05SV023, a request by Brent Pushing for a **Variance to the Subdivision Regulations to waive the requirement to pave and to reduce the surface width from 24 feet to 16 feet for Sunridge Road as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 1 thru 4, Brentwood Subdivision, Section 25, T2N, R6E, BHM, Rapid City, Pennington County, South Dakota, legally described as the S1/2 NW1/4 SW1/4 SE1/4; S1/2 NE1/4 SW1/4 SE1/4; SW1/4 SW1/4 SE1/4; SE1/4 SW1/4 SE1/4, Section 25, T2N, R6E, BHM, Rapid City, Pennington County, South Dakota, located at the end of Sunridge Road. Chapman moved, second by Hurlbut and carried to continue to the August 1, 2005 Council meeting.

CONSENT CALENDAR ITEMS – 52-91

The following items were removed from the Consent Calendar:

66. No. PW071205-10 Approve A Resolution Establishing Matching Funds for Replacing Privately-Owned Common Sewer and Water Service Lines With City Mains.

- 67. Approve the selection of Dream Design International, Centerline, Inc. and FMG, Inc. as the consultants chosen to submit quotes for design of sanitary sewer in the South Robbinsdale area.
- 68. No. PW071205-11 Acknowledge the infiltration and inflow project report.
- 76. No. LF071305-03C Authorize Mayor and Finance Officer to sign Project Agreement with the South Dakota Department of Highway Safety to do concentrated enforcement of revoked and suspended licenses. This is a two year agreement at \$100,000 per year. It will provide 100% funding for two new officers for two years with no retention requirements. The project begins August 1, 2005.
- 77. Approve addition of two new FTE's for the Police Department effective August 1, 2005.
- 83. No. LF071305-10 Authorize Mayor and Finance Officer to sign Agreement between the City of Rapid City and Harold Bies for the Acquisition of Easements.
- 84. No. LF071305-13 Authorize Mayor and Finance Officer to sign Agreement between the City of Rapid City and Legacy Land Company for the Acquisition of Easements.

Olson moved, second by Hurlbut and carried to approve the following items as they appear on the consent calendar.

Set for Hearing (August 15, 2005)

- 52. No. 05VR008 – A request by Sperlich Consulting for Doeck LLC for a **Vacation of Section Line Highway** on the SE1/4, NE1/4, NE1/4 SE1/4, N1/2 SE1/4 SE1/4, all in Section 14, T2N, R7E, BHM, Pennington County, South Dakota and the SW1/4 NW1/4, NW1/4 SW1/4, N1/2 SW1/4 SW1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the western terminus of Cobalt Drive.

Public Works Committee Consent Items

- 53. Acknowledge the Minnesota Street soccer field parking lot access report
- 54. No. PW053105-04 Acknowledge the drainage area located at the southeast quadrant of I190 and I90 report; and request that Williston Basin Pipeline be contacted and asked to eliminate noxious weeds.
- 55. Approve two additional parking spaces on the east side of Fifth Street in front of Aby's Feed Store location.
- 56. No. PW071205-02 Approve the expenditure of \$23,000.00 out of the City's Water Enterprise Fund for matching funds for West Dakota Water Development District grant project.
- 57. Direct the Parkview Softball Complex landscaping and irrigation issue to the City Attorney's Office for further action.
- 58. Approve bid award of April 4, 2005 for a 2005 Johnston Vacuum Street Sweeper to Sheehan Mack Sales and Equipment for an increase of \$5,000.00. Original bid amount \$166,600.00; adjusted bid without trade \$171,600.00, and to request that the City Attorney's Office verify the legality of this action.
- 59. No. PW071205-03 Authorize staff to advertise for bids for Fairgrounds East Drainage Improvements Project No. DR04-1389; CIP #50544, to install two 48" pipes under Centre Street, Lower water main and perform associated construction completion.

- 60. No. PW071205-04 Authorize Mayor and Finance Officer to sign a Professional Services Agreement with Kadrmas, Lee & Jackson for Preliminary Engineering, Environmental Review and Project Design for East Anamosa Street Extension Project No. ST04-1397; CIP #50316 for an amount not to exceed \$259,776.12.
- 61. No. PW071205-05 Authorize Mayor and Finance Officer to sign a Professional Services Agreement with Bareis Engineering, Inc. for Canyon Lake Dam Spillway Maintenance Plans and Specifications, Project No. DR04-1433; CIP #50576 for an amount not to exceed \$12,840.00.
- 62. No. PW071205-06 Authorize Mayor and Finance Officer to sign Amendment No. 2 to a Professional Services Agreement with Ferber Engineering Company, Inc for additional engineering services for Centre Street Sewer Main Extension Project No. SS00-940; CIP #50275 for an amount not to exceed \$7,200.00.
- 63. Authorize Mayor and Finance Officer to sign an agreement with Rushmore Mall to allow the City to set up a Transportation Planning information display in the mall at no charge.
- 64. No. PW071205-08 Approve a Resolution for Sidewalk Improvement Project SWK05-1478 for an estimated cost of \$1,800.00 to be assessed to the affected property owners; noting repairs to sidewalks are throughout the City.

**RESOLUTION TO REPAIR SIDEWALKS
SIDEWALK IMPROVEMENT PROJECT SWK05-1478**

BE IT RESOLVED by City of Rapid City as follows:

The Council hereby declares the necessity to order the repair of existing sidewalks as located throughout the City of Rapid City.

The general nature of the project is set forth above, and reference for detail is hereby made to the drawings and specifications that will be prepared by the Engineering Department and placed on file with the City Finance Officer.

The estimated cost of the project is \$1,800, which will be assessed to the affected property owners. This estimate includes six percent (6%) engineering fees and five percent (5%) fiscal agent fees. Interim construction finance fees to be determined by the Finance Officer shall be included in the project cost, the total, which will be assessed to the benefiting properties.

The recorded owners and estimated costs to the affected properties are as follows:

Pin No. and Property Owner	Legal Description	Estimate
38 07 301 029 Kenneth R. and Patricia A. Fox 2607 Willow Avenue Rapid City, SD 57701	Robbinsdale #2 Block 1, Lot 47	\$900.00
37 13 231 033 Jill A. Nagel 1795 Kent Circle Papillion, Nebraska, 68046	Robbinsdale #7 Block 12, Lot 21 (3623 Parkview Drive)	\$900.00

The method of apportionment is as follows:

The above affected property owners will be assessed 100% of the cost of the street improvements abutting their properties. The total cost is estimated to be \$1,800.

The above-described project shall hereafter be referred to as the Sidewalk Improvement Project 2005 SWK05-1478, which shall be deemed a description of the project as hereinafter set forth.

Dated this 18th day of July, 2005.

ATTEST:
s/ James F. Preston
Finance Officer
(SEAL)

CITY OF RAPID CITY
s/ Jim Shaw, Mayor

- 65. No. PW071205-09 Approve a Resolution fixing time and place for hearing on August 15, 2005 Assessment Roll for Block 13 Alley Paving (West Boulevard Addition) Project No. ST04-1420.

RESOLUTION FIXING TIME AND PLACE FOR HEARING ON
ASSESSMENT ROLL FOR
BLOCK 13 ALLEY PAVING (WEST BOULEVARD ADDITION)
PROJECT NO. ST04-1420

BE IT RESOLVED by the City Council of the City of Rapid City, South Dakota, as follows:

1. The assessment roll for Block 13 Alley Paving (West Boulevard Addition) Project ST04-1420 was submitted to the Finance Office on the 18th day of July, 2005. The City Council shall meet at the City/School Administration Center in Rapid City, South Dakota, on Monday, August 15, 2005 at 7:00 P.M., this said date being not less than twenty (20) days from the filing of said assessment roll for hearing thereon.
2. The Finance Officer is authorized and directed to prepare a Notice stating the date of filing the assessment roll, the time and place of hearing thereon, that the assessment roll will be open for public inspection at the Office of the Finance Officer, and referring to the assessment roll for further particulars.
3. The Finance Officer is further authorized and directed to publish notice in the official newspaper one week prior to the date set for hearing and to mail copy thereof, by first class mail, addressed to the owner or owners of any property to be assessed at his, her or their last mailing address as shown by the records of the Director of Equalization, at least one week prior to the date set for hearing.

Dated this 18th day of July, 2005.

CITY OF RAPID CITY

ATTEST:
s/ James F. Preston
Finance Officer
(SEAL)

s/ Jim Shaw, Mayor

- 69. No. 05RD004 Approve a **Resolution for Road Name** from Muirfield Drive to Portrush Road for petitioner DKEA, LLC and Redrock Development Co. LLC for that portion of Muirfield Drive located in Section 28 and most eastern 83.25 foot of Muirfield Drive located in Section 29 on a portion of Muirfield Drive located in Section 28; and the most eastern 83.25 foot of Muirfield Drive located in Section 29, all located in T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located on a portion of Muirfield Drive located in Section 28 and 29.

RESOLUTION RENAMING
MUIRFIELD DRIVE TO PORTRUSH ROAD DRIVE

BE IT RESOLVED, by the City of Rapid City, that a portion of Muirfield Drive located in Section 28; and the most eastern 83.25 foot of Muirfield Drive located in Section 29, all located in T1N, R7E, BHM, Rapid City, Pennington County, South Dakota be, and is hereby, renamed to Portrush Road.

Dated this 18th day of July, 2005.

ATTEST:
s/ James F. Preston
Finance Officer
(SEAL)

CITY OF RAPID CITY
s/ Jim Shaw, Mayor

- 70. No. 05SE007 Approve an **Exception to the Street Design Criteria Manual** for petitioner Jul-Mar Development, Inc. to allow curb side sidewalks in lieu of property line sidewalks on Lots 5, 6, 7 and 8, Block 1, Skyview North Subdivision, SE1/4, Section 10, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at the southern terminus of Minnewasta Road.
- 71. No. 05VE007 Approve a **Vacation of Non-Access Easement** for petitioner D. C. Scott Co. for Muth Homes, Inc. on Lot 1A and Lot 1B, Block 1, Auburn Hills Subdivision, located in the NE1/4 SW1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 1, Block 1, Auburn Hills Subdivision, located in the NE1/4 SW1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 730 Auburn Drive.

RESOLUTION OF VACATION
ACCESS RESTRICTION

WHEREAS the Rapid City Council held a public hearing on the 18th day of July, 2005 to consider the vacation of an access restriction on Lot 1A and Lot 1B, Block 1, Auburn Hills Subdivision, located in the NE1/4 SW1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota more generally described as being located at 730 Auburn Drive, is not needed for public purpose; and

WHEREAS the owner(s) of property adjacent to the above-described property desires said portion of the access restriction to be vacated and released;

NOW, THEREFORE, BE IT RESOLVED by the Rapid City Council, that the portion of the access restriction heretofore described, and as shown on Exhibit "A", attached hereto, be and the same is hereby vacated.

Dated this 18th day of July, 2005.

ATTEST:
s/ James F. Preston
Finance Officer
(SEAL)

CITY OF RAPID CITY
s/ Jim Shaw, Mayor

Legal & Finance Committee Consent Items

72. No. LF071305-02 Approve Amended Travel Request for Captain Mike Maltavern, Scott O'Connor, Paul Johnson, and John Renz to attend Rocky Mountain Emergency Services Training Centers in Helena, MT, September 13-15, 2005, in the approximate amount of \$3,591.
73. No. LF071305-03 Approve Travel Request for David Stucke to attend Forensic Analysis Photographic/Video Comparison at the British Columbia Institute of Technology, August 22-26, 2005, in the approximate amount of \$1,847.
74. No. LF071305-03A Approve Travel Request for Lieutenant Walton and Detective White to attend Property Crime Conference in Las Vegas, August 22-25, 2005, in the approximate amount of \$2,084.
75. No. LF071305-03B Authorize staff to purchase two (2) 2006 Ford Crown Victoria police vehicles from McKie Ford at state bid price of \$21,995 each. These two vehicles will be for the canine officers and are funded from state drug seizure money.
78. No. LF071305-04 Approve Travel Request for Joe Tjaden and Rich Broderick to attend Tank Car Specialist Course in Pueblo, CO, September 11-17, 2005, in the approximate amount of \$3,970.84.
79. No. LF071305-05 Authorize Mayor and Finance Officer to sign the Sub-recipient Contract for Community Development Block Grant (CDBG) Funding between the City of Rapid City and The Salvation Army for an amount not to exceed \$35,779.
80. No. LF071305-06 Authorize Mayor and Finance Officer to sign Agreement with Department of Corrections.
81. No. LF071305-08 Approve Travel Request for Keith L'Esperance to attend Annual National Public Risk Management Association Conference in Las Vegas, NV, June 10-14, 2006, in the approximate amount of \$1,825.
82. No. LF071305-09 Accept the Finance Officer's report regarding costs to administer reduced rates for utility billing and to take no further action on this matter.
85. No. LF071305-11 Approve Raffle Request from Central and Stevens High School Booster Clubs for Rushmore Bowl.
86. No. LF071305-12 Approve the following abatement: Big D Oil Company, 2004, \$951.12.
87. Approve the following licenses: Residential Contractor: Travis Tschetter, Tschetter Builders Inc.; Mechanical Apprentice: Scott Miller; Mechanical Installer: Justin Peckham.

Growth Management Department Consent Items

88. No. 05PL109 - A request by D.C.Scott Co. for Muth Homes, Inc. for a **Preliminary Plat** on Lot 1A and Lot 1B, Block 1, Auburn Hills Subdivision, located in the NW1/4 SW1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 1, Block 1, Auburn Hills Subdivision, located in the NW1/4 SW1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 730 Auburn Drive. (APPROVE PRELIMINARY PLAT WITH THE FOLLOWING STIPULATIONS: 1. An Exception is hereby granted to reduce the separation from 50 feet to 45 feet between the intersection of Chalkstone Drive and Auburn Drive and a driveway to proposed Lot 1A as per the Street Design Criteria Manual; 2. Prior to Preliminary Plat approval by the City Council, a Vacation of Non-access Easement shall be approved to vacate five foot of the previously platted non-access easement located along Chalkstone Drive as it abuts proposed Lot 1A or the plat document shall be revised to show the full 50 foot non-access easement.; and, 3. Prior to submittal of a Final Plat application, the plat document shall be revised to show the book and page of the vacated non-access easement as recorded at the Register of Deed's Office.)
89. No. 05PL110 - A request by D.C. Scott Co. for William Morrison for a **Preliminary Plat** on Lot 1, Lot 2, Lot 3, Lot 4 and Lot 5, Morrison Subdivision, located in the SW1/4 SW1/4, Section 14, T1N, R8E, BHM, Pennington County, South Dakota, legally described as Parcel B, Lot 3, located in the SW1/4 SW1/4, Section 14, T1N, R8E, BHM, Pennington County, South Dakota, located adjacent to the north side of Green Valley Drive between Reservoir Road and Green Field Drive. (PRELIMINARY PLAT IS DENIED WITHOUT PREJUDICE.)
90. No. 05PL111 - A request by Sperlich Consulting, Inc. for Walgar Development Corp. for a **Preliminary Plat** on Lot 1, Block 2, Minnesota Park Subdivision, Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the N1/2 SE1/4, and a portion of tract B, Robbinsdale Addition No. 10 all located Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the southeast corner of Minnesota Street and Fifth Street. (APPROVE PRELIMINARY PLAT WITH THE FOLLOWING STIPULATIONS: 1. Prior to Preliminary Plat approval by the City Council, all necessary changes shall be made to the construction plans as identified on the red lined drawings. In addition, the red lined drawings shall be returned to the Growth Management Department; 2. Prior to Preliminary Plat approval by the City Council, a drainage plan shall be submitted for review and approval demonstrating that post development storm drainage shall not exceed predevelopment flows or on-site detention shall be provided. In addition, the drainage plan shall identify erosion and sediment control measures. The plat document shall also be revised to provide drainage easements as needed; 3. Prior to Preliminary Plat approval by the City Council, the water plans shall be revised to show any on-site distribution service lines, fire hydrants and valves. In addition, calculations demonstrating adequate water flows for fire and domestic use shall be provided; 4. Prior to Preliminary Plat approval by the City Council, the sewer plans shall be revised to show any on-site collection lines and manholes; 5. Prior to Preliminary Plat approval by the City Council, a grading plan with appropriate contours shall be submitted for review and approval. In addition, a geotechnical report addressing grading and pavement design for any on-site street and parking areas and corrosivity of soils for water line design shall be submitted for review and approval; 6. Prior to Preliminary Plat approval by the City Council, the plat document shall be revised to show

the dedication of ten additional feet of right-of-way along Minnesota Street or a Variance to the Subdivision Regulations shall be obtained; 7. Prior to Preliminary Plat approval by the City Council, the plat document shall be revised to show a non-access easement along the west 230 feet of Lot 1 as it abuts Minnesota Street or an Exception shall be obtained to reduce the driveway distance from the intersection of Fifth Street and Minnesota Street to 50 feet in lieu of 230 feet as per the Street Design Criteria Manual; 8. Prior to Preliminary Plat approval by the City Council, a cost estimate of the subdivision improvements shall be submitted for review and approval; and, 9. Upon submittal of a Final Plat application, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid.)

91. No. 05PL114 - A request by Dream Design International, Inc. for a **Preliminary Plat** on Lot 3R and Lot 4R, Block 1, Eastridge Estates Subdivision, NW1/4, Section 24, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 3 and Lot 4, Block 1, Eastridge Estates Subdivision, NW1/4, Section 24, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the southwest corner of the intersection of Enchantment Road and Stumer Road. (APPROVE PRELIMINARY PLAT WITH THE FOLLOWING STIPULATIONS: 1. Prior to Preliminary Plat approval by the City Council, a structural site plan showing the existing residence located on proposed Lot 4R shall be submitted for review and approval; 2. Prior to Preliminary Plat approval by the City Council, the applicant shall submit written documentation from all of the affected utility companies concurring with the proposed vacation of utility easement located along the existing common lot line or the plat document shall be revised to show the utility easement; 3. Prior to Preliminary Plat approval by the City Council, a cost estimate of the subdivision improvements shall be submitted for review and approval; and, 4. Upon submittal of a Final Plat application, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid.)

END OF CONSENT CALENDAR

The Mayor presented No. PW071205-10, to approve a Resolution Establishing Matching Funds for Replacing Privately-Owned Common Sewer and Water Service Lines With City Mains; whereupon Hurlbut moved, second by Kooiker and carried to approve with direction to City staff to come to the Public Works Committee with just how that level of assistance the City provides was established, and potential reconsideration.

The Mayor presented No. PW071205-11, to acknowledge the infiltration and inflow project report; whereupon Kooiker moved, second by Hurlbut. Public Works Director Jablonski responding to a concern from Alderman Kooiker about the infiltration and inflow study conducted by the Alliance of Architects and Engineers in 1997, indicated staff will bring forward an update on those areas that were not addressed, and specifically Centre Street. Upon a vote being taken on the motion, motion carried.

Hurlbut moved, second by Olson and carried (No. LF071305-03C) to authorize Mayor and Finance Officer to sign Project Agreement with the South Dakota Department of Highway Safety to do concentrated enforcement of revoked and suspended licenses. This is a two year agreement at \$100,000 per year. It will provide 100% funding for two new officers for two years with no retention requirements. The project begins August 1, 2005.

Kroeger moved, second by Olson and carried to approve addition of two new FTE's for the Police Department effective August 1, 2005.

Hurlbut moved, second by Olson and carried (No. LF071305-10) to authorize Mayor and Finance Officer to sign Agreement between the City of Rapid City and Harold Bies for the Acquisition of Easements.

Hurlbut moved, second by Olson and carried (No. LF071305-13) to authorize Mayor and Finance Officer to sign Agreement between the City of Rapid City and Legacy Land Company for the Acquisition of Easements.

ALCOHOLIC BEVERAGE LICENSE APPLICATIONS

The Mayor announced the meeting was open for hearing on the listed applications for Alcoholic Beverage Licenses to operate within the City of Rapid City, South Dakota. No public comments were made. Chapman moved, second by Johnson and carried to close the public hearing.

Chapman moved, second by Hadley and carried to approve the following alcohol license application.

Retail (On-Off Sale) Malt Beverage License WITHOUT Video Lottery (Renewal)

92. Dakota Fresh-Mex, LLC dba **Qdoba Mexican Grill**, 741 Mountain View Road for a Retail (On-Off Sale) Malt Beverage License without Video Lottery
93. Habaneros of Texas, Inc. dba **Hotexas BBQ**, 5412 South Hwy 16 for a Retail (On-Off Sale) Malt Beverage License without Video Lottery

Retail (On-Off Sale) Malt Beverage License WITHOUT Video Lottery (Transfer)

94. Brandt Cherry dba **Wing & It**, 5412 South Hwy 16 for a Retail (On-Off Sale) Malt Beverage License without Video Lottery Transfer from Habaneros of Texas, Inc. dba Hotexas BBQ
95. Ron J. Stevens and Sandy K. Thornburg dba **Executive Golf Course**, 200 12th Street for a Retail (On-Off Sale) Malt Beverage License without Video Lottery Transfer from Waneta & Dick Ragels
96. Ron J. Stevens and Sandy K. Thornburg dba **Meadowbrook Grill & Pub**, 3625 Jackson Blvd. for a Retail (On-Off Sale) Malt Beverage License without Video Lottery Transfer from Waneta & Dick Ragels

Retail (On-Sale) Wine License (Transfer)

97. Ron J. Stevens and Sandy K. Thornburg dba **Meadowbrook Grill & Pub**, 3625 Jackson Blvd. for a Retail (On Sale) Wine License Transfer from Waneta & Dick Ragels

Special Beer and Wine License

98. **Suncatcher TheroPeutic Riding Academy** for a special Beer and Wine License to be used on July 28, 2005 at WestMed Rehab, Inc., 318 Mt. Rushmore Road, Suite E

Set for Hearing (August 1, 2005)

Chapman moved, second by Kroeger and carried, and the Finance Officer was directed to publish notice of hearing on the following application, said hearing to be held as follows:

Retail (On-Sale) Wine License

- 99. Hogg Restaurant Service dba **HRS Food Service**, 2501 West Chicago Street for a Retail (On-Sale) Wine License

ITEMS FROM THE MAYOR

Johnson moved, second by Olson and carried to approve the following appointments to the Floodplain Boundary Policy Committee: Tom Johnson, Council President; Ron Kroeger, Council Vice President; Karen Olson, Public Works Committee Chair; Malcom Chapman, Legal & Finance Committee Chair; Scott Nash, Planning Commission Chair; Doug Andrews, Planning Commission Vice Chair; and Pennington County Commission Chair; and City staff members – Marcia Elkins, Growth Management Director and Dirk Jablonski, Public Works Director. Terms are indefinite.

Kroeger moved, second by Olson and carried to approve the appointment of Adrienne Kerst to the Historic Preservation Commission to complete a vacated two-year term to expire December, 2006.

Kroeger moved, second by Hurlbut and carried to approve the appointment of Lesley Rutter as the Sign Industry member to a vacated term on the Sign Code Board of Appeals to expire December, 2005.

Kroeger moved, second by Hurlbut and carried to approve the reappointment of Lee Geiger and Kyle Mattison to the Historic Sign Board for a three-year term to expire July 1, 2008.

Kroeger moved, second by Hurlbut and carried to approve the appointment of Dr. Art Zimiga to the Journey Museum Board to fill a vacant term to expire December, 2008.

Kooiker moved, second by Chapman and carried to approve the appointment of Ward One Alderman Mike Schumacher to the Landfill Task Force and to Chair the Landfill Task Force.

ITEMS FROM COUNCIL MEMBERS/LIAISON REPORTS

Ward Two Aldermen Sam Kooiker and Deb Hadcock reported the development of a Task Force to address issues in their ward. This Task Force will meet the first Thursday of the month, beginning August 4, 2005 at 6:30 P.M. at the Church of the Nazarene, 602 St. Andrew Street.

FINANCE OFFICER'S ITEMS

Finance Officer Preston addressed No. CC071805-02, reporting that audio tapes are currently being archived for a period of two years for the Legal & Finance Committee; and the audio tapes for the Public Works Committee are also currently being archived. He explained that two boxes of new tapes would need to be purchased at an estimated cost of \$40.00 to replace the tapes that will be archived. Alderman Johnson suggested the replacement cost was inexpensive and reminded the Council that discussions at Public Works and Legal and Finance are not as relevant as the final action taken by the full Council during their proceedings. Alderman Kooiker

was of the opinion that archiving audio tapes is not as important as it was several weeks ago, because the recordings of the Public Works and Legal and Finance Committees are posted to the Internet. Kooiker believed the issue is consistency between the City departments, on how long the tapes are saved. Because earlier recordings of these meetings will not be posted to the Internet, Kooiker explained the City needs to insure those tapes are saved and made part of the public record. Responding to Alderman Kooiker's comments on inconsistency, Preston pointed out the Council adopted the State of South Dakota Retention Records Manual on how long the City keeps records; and one of the retention guidelines addressed audio recordings kept for secretary minutes, and that says they are to be kept for ninety (90) days or more or not less than ninety (90) days. Preston suggested the Public Works Department and the City Attorney's Office are within the guidelines established by the Council's adoption of the State's records retention manual. Alderman Schumacher reminded the Council that during the most recent election campaign, attendance of these meetings were made to be an issue. He suggested the content of these meetings should be made public, as well as archived, and also suggested the past meetings should be streamed and posted to the website.

Schumacher moved, second by Kooiker to stream everything we have and we put it on the website. Discussion continued. Alderman Chapman indicated his concern is archiving the meetings on a longer lasting, more permanent media, suggesting an audio tape would not be the best way to archive. Alderman Schumacher responding to Alderman Johnson questioning the intent of the motion, asking if by "everything" meant all subcommittees, indicated that if we do not have tapes of them; if we do not have records of them; then it is not a concern; but if there are tapes, they should be streamed. Preston indicated the direction to stream "everything" is expensive as additional space would have to be acquired. He asked for an opportunity to do the research and develop a report on the costs associated with streaming "everything"; and to bring that report forward to the Council in thirty days. He suggested a more economical way to archive the meetings is to put them on DVD; archive the media in the Mayor's Office, which would make them available for listening or a request to copy.

Substitute motion was made by Olson, second by Johnson that we explore costs of archiving and streaming the items that have been discussed, and define what "all" is, and bring the information forward to a committee meeting in thirty (30) days. Discussion continued. Preston responding to a question for Alderman Schumacher indicated the Council should make the policy decision of making DVD's and tapes available to be checked out by anybody at anytime. Upon a request from Preston for a clarification of "everything" it was determined to include the Public Works and Legal and Finance Committees, Council (regular and special) and the Planning Commission. Upon a vote being taken on the substitute motion, motion carried with Hadcock voting NO.

Kooiker moved, second by Schumacher that the past recordings of the Legal and Finance and Public Works Committees and Council meetings be archived and preserved while this matter is being discussed. Motion carried.

BID AWARDS

The following companies submitted bids for No. CC070505-02, Enhanced Corrosion Inhibited Liquid Magnesium Chloride for Streets Division opened June 30, 2005: EnviroTech Services, Inc. and Z & S Dust Control. Staff reviewed the bids and recommends award to Z & S Dust Control. Hadley moved, second by Hadcock and carried to approve the bid award of Enhanced

Corrosion Inhibited Liquid Magnesium Chloride for Streets Division to the lowest responsible bidder meeting specifications, Z & S Dust Control for the low unit price bid for a total contract amount of \$20,500.00.

The following companies submitted bids for No. CC070505-02, Sodium Chloride for Streets Division opened June 30, 2005: Nebraska Salt & Grain Co. and Tri-State Commodities. Staff reviewed the bids and recommends award to Nebraska Salt & Grain Co. Olson moved, second by Chapman and carried to approve the bid award of Sodium Chloride for Streets Division to the lowest responsible bidder meeting specifications, Nebraska Salt & Grain Co. for the low unit price bid for \$48.41 per ton, for an extended contract amount of \$242,050.00.

The following companies submitted bids for No. CC071805-03, East Saint Charles Street Water Main Extension Project No. W05-1476 / CIP No. 50585 opened July 13, 2005: Highmark, Inc., Hills Materials Company, Quinn Construction, Shovelhead Excavating, Inc. and Mainline Contracting. Staff reviewed the bids and recommends all bids be rejected, and staff authorized to re-advertise for bids for East Saint Charles Street Water Main Extension Project No. W05-1476 / CIP No. 50585; whereupon Johnson moved, second by Chapman and carried to approve.

APPROVAL OF BILLS

The following bills having been audited, it was moved by Olson, second by Kooiker and carried to authorize the Finance Officer to issue warrants or treasurers checks, drawn on the proper funds, in payment thereof:

Payroll Paid Ending 07-09-05, Paid 07-15-05	722,732.08
Payroll Paid Ending 07-09-05, Paid 07-15-05	2,496.48
Pioneer Bank, Taxes Paid 07-15-05	173,688.84
Pioneer Bank, Taxes Paid 07-15-05	165.91
First Administrators, claims paid 07-06-05	17,402.66
First Administrators, claims paid 07-13-05	19,892.87
1 st National Bank in Sioux Falls, SRF Loan Payment	388,219.18
Berkley Risk Administrators, claim payments	26,252.64
Black Hills Power & Light, electricity	42,749.85
Black Hills Electric Cooperative, electricity	588.80
Montana Dakota Utilities, gas	868.60
West River Electric Association, electricity	17,225.54
United States Postmaster, postage	800.00
Computer Bill List	<u>3,808,960.57</u>
Subtotal	\$5,222,044.02
Payroll Paid Ending 07-09-05, Paid 07-15-05	2,511.60
Pioneer Bank, Taxes Paid 07-15-05	192.14
City of Rapid City, postage	154.54
City of Rapid City, health insurance	643.00
City of Rapid City, petty cash	28.00
Conoco Phillips, gas	310.01
Dakota Business Center, copier maintenance	10.88
IIARC, Dishonesty Bond Coverage	2.12

CITY COUNCIL

JULY 18, 2005

SD School of Mines & Technology, telephone	47.07
Karen Spalding, meals-Pierre	87.00
Standard Life, life insurance	7.92
Angie Weeks, meals, gas-Pierre	112.00
Western Mailers, extra postage mailing	15.70
Subtotal	<u>\$5,226,166.00</u>
Office Max, correct tax adjustment	41.31
Total	<u>\$5,226,207.31</u>

CITY ATTORNEY'S ITEMS

Hadley moved, second by Olson and carried to go into Executive Session at 10:59 P.M. to discuss pending litigation. The Council came out of Executive Session at 11:21 P.M. with all members present.

Johnson moved, second by Olson to approve an agreement as proposed between the City of Rapid City and Lazy P-6, including the language that was discussed regarding the cost for relocation due to any stormwater facility installed by the City. Motion carried.

Hurlbut moved, second by Kroeger to approve the selection of Dream Design International, Centerline, Inc. and FMG, Inc. as the consultants chosen to submit quotes for design of sanitary sewer in the South Robbinsdale area. Substitute motion was made by Johnson and second by Olson to authorize the Mayor and Finance Officer to sign a Professional Service Agreement with FMG, Inc. to design the sanitary sewer in the south Robbinsdale area for an amount not to exceed \$9,925.00. Motion carried.

ADJOURN

As there was no further business to come before the Council at this time, the meeting adjourned at 11:26 P. M.

CITY OF RAPID CITY

ATTEST:

Mayor

Finance Officer

(SEAL)



CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

OFFICE OF THE CITY ATTORNEY

300 Sixth Street

Joel P. Landeen, Assistant City Attorney

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MEMORANDUM

TO: Mayor and City Council

FROM: Joel P. Landeen, Assistant City Attorney

DATE: 5-19-11

RE: Recommendations of the Ad Hoc Sign Code Revision Task Force

On October 18, 2010, an Ad Hoc Sign Code Revision Task Force was created at the regular meeting of the City Council. The direction to the task force was to review the entire sign code and report back to the Mayor and City Council with any revisions to the code the task force found to be appropriate. The task force met 17 times, took a field trip to review actual signage in the City and held two additional meetings focused solely on taking public comments. The minutes of the meetings are linked to the City's website (<http://www.rcgov.org/Growth-Management/ad-hoc-sign-code-revision-task-force.html>) and while they are not verbatim, provide further detail regarding the discussion on the specific recommendations of the task force. Based upon its review of the sign code and the input it received at its meetings, the task force would make the following recommendations:

1. The task force discussed the current sign credit system at length. The task force voted to preserve the existing sign credit system. Feb 9, 2011 (Cite to meeting where motion making recommendation was approved). (Vote: 10 in favor; 1 against)

2. The task force discussed video signage and voted to recommend that full motion be prohibited on all off-premises, on-premises and public purpose signs within the City. This includes prohibiting full motion on all current signs. Mar 2, 2011. (Vote: 7 in favor; 3 against)
3. The task force recommends that no additional electronic digital off-premises signs be allowed. The task force also recommends that on-premises electronic signs be treated the same as off-premises signs. Mar 9, 2011. (Vote: 5 in favor; 3 against)
4. If off-premises digital signs are allowed, the task force recommends 4 sign credits be required to convert a static billboard to a digital one. Feb. 23, 2011. (Vote: 5 in favor; 3 against)
5. The task force recommends that the display messages on both off-premises and on-premises signs be limited to a 6 second static message with no animation. Scrolling messages would be allowed, but a definition of what constitutes a scrolling message should be added to the sign code. Apr 13, 2011. (Vote: 6 in favor; 5 against)
6. The task force recommends the City adopt a non-subjective brightness standard for any electronic/video signs whether they be on or off premises. The standard that the task force recommends is .3 foot candles above ambient light. This standard is based on a presentation on electronic/video signage by a representative of Daktronics. There are several communities/states which have created a sign brightness/intensity standard based on the brightness/intensity of the sign in comparison to the ambient lighting. There is currently equipment that costs less than a \$500 which can measure this standard. Apr 6, 2011. (Vote: unanimous)
7. The task force recommends that all legal, non-conforming signs have a maximum of 10 years to come into compliance with the sign code. The task force would recommend that all legal non-conforming signs within the Downtown Historic District and the Original Town of Rapid City be excluded from this requirement. Apr 13, 2011. (Vote: 6 in favor; 5 against)
8. The task force recommends that City signage, such as the Civic Center sign, comply with the sign code. Apr 13, 2011. (Vote: unanimous)
9. The task force reviewed the exception for political signs and recommends the following changes:

POLITICAL SIGNS

Found in Sec.15.28.080 of the RCMC

13. Temporary Political signs are allowed so long as they are not located within the public right of way, a required sight triangle or a required parking stall or parking area, and Political signs may not be displayed until thirty (30) days prior to the election and are limited to 32 total square feet and a maximum height of 8 feet in height. Temporary political signs shall be removed within 5 days after the election;

The only substantive change was a prohibition against displaying political signs more than 30 days before an election. Apr 6, 2011. (Vote: unanimous)

10. The task force reviewed the section of the code on miscellaneous signs and recommended the following changes:

MISCELANEOUS SIGNS – CHARITABLE EXCEPTION

Found in 15.28.050 and 15.28.220 of the RCMC

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 prohibited except when permitted ~~for the opening of a new business, not to exceed 15 days pursuant to Section 15.28.220;~~

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. A permit may be issued for banners, pennants, sandwich board signs, and air and gas-filled figures (not exceeding 15 feet in height) to the following:

1. For a business in conjunction with a grand opening. A permit issued under this sub-section shall not exceed 15 days. Only one grand opening will be allowed per business.

2. To a non-profit, civic, charitable or fraternal organization in conjunction with a special event being held within the City. The permit may authorize such signage at multiple locations throughout the City. A permit issued under this sub-section shall not exceed 30 days.

AB. 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. The signs shall comply with the following:

- ~~1. For on-premises ground signs and on-premises wall signs, the size shall not exceed 32 square feet;~~
- ~~2. The height of the sign shall not exceed 8 feet;~~

1. One on-premises ground sign shall be allowed per street frontage. The maximum height and area of the sign shall be based on its distance from the street frontage based on the following table:

Distance from Street Frontage	Maximum Height	Maximum Area
0 to 50 ft.	8 ft.	32 sq.ft.
50 to 200 ft.	15 ft.	64 sq.ft.
Over 200 ft.	20 ft.	120 sq.ft.

2. One on-premises wall sign shall be allowed per street frontage. The maximum area for the signs is based on the distance from the street frontage and is identical to the area allowed for on-premises ground signs. The height of the wall sign is dependent on the height of the building and is not subject to the restrictions on height for on-premises ground signs. If a wall sign is directly adjacent to a walking or other paved surface, it must be at least 8 ft. from the lowest part of the sign to the surface grade.

- 3. Signs shall not be placed within a required sight triangle or a required parking area; and
- 4. Electric signs shall comply with § 15.28.130.

~~BC.~~ In the area of the City designated as the "original town," Each separate business entity may display 1 pedestrian-oriented sign for each wall of the building that faces a public street ~~in the original town.~~ These signs are limited to 5-foot projection, 8 square feet, 9-inch letters and 8-foot clearance.

~~CD.~~ For home businesses or occupations located in residential zoning districts, ~~(The total area of wall signs or ground signs for all residential entities on the premises may be~~ is 1 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 1 such sign per street frontage is allowed;
2. The maximum height of the sign shall be ~~8~~ 5 feet; and
- ~~3. The maximum width of the sign area shall be 8 feet.~~

~~DE.~~ Wall signs or ground signs for a commercial use in a residential district or a home occupation may be 1 square foot in size per commercial use or home occupation.

~~EF.~~ Miscellaneous signs shall not be located within any clear sight triangle as set forth by city's Municipal Code.

~~FG.~~ The light from any light source intended to illuminate a miscellaneous sign, or emanating from an internally illuminated miscellaneous sign, shall be so shaded, shielded, directed or of such an intensity that the 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. If a miscellaneous sign is located in a residential zoning district, any illumination will be turned off from 10:00 p.m. to 6:00 a.m.

The changes recommended by the task force would provide an exception to allow certain signage which would otherwise be prohibited in conjunction with a grand opening of a new business or in conjunction with a special event being conducted by a non-profit, civic, charitable, or fraternal organization. The recommendation also made changes to the allowable signage for schools and churches. The requirements for signage in the current code are very restrictive. In the past, these entities used the 11-6-19 review process to get approved for larger signage. This process is no longer available and the result has been increased requests for variances. The recommended changes provide for additional signage with size and height requirements being based on the distance from the sign to the nearest street frontage. Apr 6, 2011. (Vote: 7 in favor; 2 against)

SIGN CODE

Ineffective
March 2013

Sign Code
moved to
Title 17

ORDINANCE NO. 5779

AN ORDINANCE REPEALING CHAPTER 15.28 OF THE RAPID CITY MUNICIPAL CODE IN ITS ENTIRETY AND ADOPTING A NEW CHAPTER 15.28 REGULATING SIGNAGE WITHIN THE CITY OF RAPID CITY.

WHEREAS, the Common Council of the City of Rapid City finds that regulating the placement, size, spacing, brightness and appearance of signs is necessary to protect the health, safety and welfare of the citizens of Rapid City; and

WHEREAS, the City created an Ad Hoc Sign Code Revision Task Force on October 18, 2010; and

WHEREAS, the Ad Hoc Sign Code Revision Task Force was given the mandate to review the entire Sign Code and report back to the Mayor and City Council any revisions to the code it found to be appropriate; and

WHEREAS, the Ad Hoc Sign Code Revision Task Force met 17 times, took a field trip to view signage in the City and held two additional meetings for the sole purpose of taking input from the public; and

WHEREAS, the Ad Hoc Sign Code Revision Task Force has made its recommendations to the Mayor and City Council; and

WHEREAS, the City Council considered the Ad Hoc Sign Code Revision Task Force's recommendations at a Special City Council Meeting on September 26, 2011; and

WHEREAS, the City's Legal and Finance Committee was presented with a first draft of the proposed changes to the Sign Code on December 14, 2011; and

WHEREAS, the Legal and Finance Committee directed that the Sign Code be restructured so that on-premises signs and off-premises signs were regulated in separate Chapters of the Code; and

WHEREAS, the City Council has determined it is in the best interests of the City, with due consideration being given to the recommendations of the Ad Hoc Sign Code Revision Task Force, to make certain changes to the City's Sign Code by adopting a new chapter of the Code regulating general provisions related to both on-premises signage and off-premises signage by adopting a new Chapter 15.28 of the Rapid City Municipal Code.

NOW THEREFORE, BE IT ORDAINED, by the City of Rapid City that Chapter 15.28 of the Rapid City Municipal Code be repealed in its entirety.

BE IT FURTHER ORDAINED, by the City of Rapid City that a new Chapter 15.28 of the Rapid City Municipal Code be added to read as follows:

15.28.010 Definitions.

For the purpose of this Chapter, Chapter 15.29 and Chapter 15.30, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED SIGN. An on-premises or off-premises sign which meets 1 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 an advertising message.

ADVERTISING MESSAGE. The copy on a sign which advertises goods, products, services, persons, or public messages.

ANIMATION. Any sign which includes moving graphics, symbols, designs, pictures, or animated creations produced on a digital display, plasma display, LCD display, or other similar technology. For purposes of this code, this item does not refer to flashing, which is separately defined.

AWNING. A shelter supported entirely from the exterior wall of a building. (See the current building codes adopted by the City of Rapid City for construction, projection and clearances).

AWNING SIGN. Any sign attached or incorporated into on an awning.

BANNER. 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. All window and wall area of a building in 1 plane or elevation.

BUILDING OFFICIAL. The officer or other designated authority charged with the administration and enforcement of this code.

CANOPY. See awning.

CHANGEABLE COPY SIGN (MANUAL). A sign on which copy is changed manually in the field.

CITY. The city of Rapid City.

COMMON COUNCIL. The Common Council of Rapid City.

COPY. The message on a sign surface either in permanent, temporary or removable form.

COUNTY. Pennington County, South Dakota.

DIRECTIONAL SIGN. Any sign which serves solely to designate the location or direction to a place or area.

DISPLAY SURFACE. The area made available by the sign structure for the purpose of displaying the advertising message.

EARTH TONE. A color such as tan or light brown as approved by the Building Official.

ELECTRICAL SIGN. Any sign containing electrical wiring.

ELECTRONIC MESSAGE CENTER. An on-premises sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means.

ERECTED. Attached, altered, built, constructed, reconstructed, enlarged or moved, and shall include the painting of wall signs, but does not include changing the copy on any sign.

EXEMPT SIGN. A sign for which a permit is not required.

FLAG. 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. Any sign displaying a pattern of rapidly changing light illumination where the illumination on the sign alternates suddenly between high and low intensity for the purpose of drawing attention to the sign.

FRONTAGE. 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. A sign erected on a foundation, free-standing frame, mast or pole which is not attached to any building or other structure.

HEIGHT OF SIGN. 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. 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. A multi-face sign capable of showing multiple advertising messages in the same area through the manual rotation of vertical or horizontal sections of the sign face.

LAWFUL NONCONFORMING SIGN. A sign or sign structure which does not comply with all provisions of this code, but which was legal at the time it was constructed.

LOT. 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. To allow a sign to exist or remain, or to repair or refurbish a sign in order to prevent decay or deterioration.

MARQUEE. A permanent roofed structure attached to and supported by the building and projecting out from a building or structure. See the current building codes adopted by the City of Rapid City for projection, construction, clearance, length, thickness and prohibited locations.

MARQUEE SIGN. Any sign attached to or constructed in or on a marquee.

MESSAGE. A communication through written words, symbols, signals, or pictures.

ON-PREMISES SIGN. 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. 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. Blocks 71-76, 81-86, 91-96, 101-106 and 111-116 of the original town plat of Rapid City.

OUTLINE LIGHTING. 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. 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. That portion of a building wall that rises above the roof level.

PEDESTRIAN SIGNS. A sign that advertises to pedestrian traffic as regulated by § 15.28.210.

PERSON. 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. A legally described parcel of land where a sign is physically located.

PROJECTING SIGNS. 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).

RAPID CITY SIGN CODE. Chapters 15.28, 15.29 and 15.30 of the Rapid City Municipal Code.

REAL ESTATE or PROPERTY FOR SALE, RENT or LEASE SIGN. Any sign pertaining to the sale, lease or rental of land or buildings.

ROOF LINE. The top edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette.

ROOF SIGN. Any sign erected upon, against or directly above a roof or on top of or above the parapet of a building.

ROTATING SIGN. Any sign or portion of a sign which moves in a revolving or similar manner.

SIGN. Any identification, description, illustration or device illuminated or non-illuminated, 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.

SCROLLING. The horizontal and/or vertical movement of an advertising message across the face of an electric messaging center sign.

SIGN AREA. The total area or areas of all signs within the outer edges of the sign or advertising message.

SIGN STRUCTURE. Any structure which supports, has supported, or is capable of supporting a sign, including a decorative cover.

STREET. A public or private right-of-way which affords the principal means of access to abutting property.

STRUCTURAL ALTERATION or **STRUCTURAL CHANGE**. Any change, modification or alteration of a sign or sign structure, except changing the copy or advertising message on a sign, painting the sign, changing light bulbs, performing routine maintenance and upgrades on a sign's wiring or electrical systems, or the installation of energy saving technology which does not require any changes or modifications to the sign structure in addition to the device being installed.

TEMPORARY SIGN. A sign which is not permanently affixed.

USE. 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. 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. 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. 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.

The provisions of this Chapter apply to the Rapid City Sign Code.

- A. The Building Official is authorized and directed to enforce all the provisions of this code.
- 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. The 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 assist in carrying out the administration and enforcement of this code.
- 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 the 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 the 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 if it is not properly maintained, if it is not structurally sound, if it has been abandoned, if it was erected without a proper permit, if it does not qualify as a legal non-conforming sign and violates some provision of this code, or if it is in violation of any other provision of the City code, state law or federal law.

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 a specified period of time as determined by the Building Official, the sign shall be removed in accordance with the provisions of this Chapter. The owner of the building, structure, premises, or sign shall be responsible for the cost of removing the sign or sign structure.

B. Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of the 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 assessments 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 the person, at the address of the premises where the unlawful sign is located. The failure of any such person to receive the 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. Notwithstanding any other provision of this code, an unlawful sign is declared a nuisance and may be abated as such under applicable state laws and city ordinances.

15.28.050 Prohibited signs.

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

A. Off-premises or public purpose signs incorporating animation, graphics, pictures or video which is in motion.

B. Signs incorporating noise, blasts, vibration or dust;

C. Signs incorporating flashing, blinking or traveling lights;

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

E. Abandoned signs or unlawful signs;

F. A sign attached to, or painted on, a motor vehicle or trailer that is parked on, or adjacent to, property for more than 24 consecutive hours, the principal purpose of which is to serve as a stationary advertising device and to attract attention to a good service, business or product, not including vehicle sales. A logo or business name on a motor vehicle or on equipment, shall not be prohibited unless the motor vehicle or equipment is being used as a stationary advertising device. However, this prohibition shall not include trailer-mounted signs when the gross weight of the sign and the trailer is less than 1,000 pounds;

G. Signs located in the public right-of-way unless otherwise allowed by another provision of city ordinance, state law or federal law;

H. Banners, pennants, search lights, streamer, twirling signs, sandwich board signs, sidewalk or curb signs, balloons, air and gas-filled figures shall be prohibited except when permitted pursuant to § 15.28.210(A);

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

J. Projecting signs, except pedestrian-oriented signs that do not exceed 8 square feet;

K. Off-premises roof signs;

- L. On-premises roof signs;
- M. Off-premises wall signs
- N. Indexing signs, as defined herein;
- O. 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;
- P. Off-premises sign constructed with more than 1 display surface per side;
- Q. Off-premises sign in a position or shape other than horizontal whose width is greater than its height;
- R. Off-premises ground signs with faces constructed at any angle greater than 20 degrees as measured by any angle between the 2 faces;
- S. Off-premises signs with a face width greater than 30 feet or a face height greater than 15 feet;
- T. Off-premises signs with internal illumination or displaying electronic variable messages are prohibited. Any new off-premises sign is prohibited if it is internally illuminated or operates to display electronic variable messages through light emitting diodes or any other light emitting mechanism. An existing off-premises sign may not be converted to a sign that is internally illuminated or operates to display electronic variable messages through light emitting diodes, liquid crystal display, plasma image display, or any other light emitting mechanism.

15.28.060 Off-premises sign license.

- A. Every off premises sign shall have an off-premise sign license issued by the Building Official. The Common Council shall establish the fee for each off-premises sign license by resolution. The fee for off-premises sign licenses shall be \$75 until modified by the Common Council's resolution. No more than 1 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 January 10 of any year is an unlawful sign as defined under this code and is subject to removal under the provisions of § 15.28.040.
- D. No off-premises sign license shall be issued for a new off-premises sign unless the owner of the sign shall surrender to the Building Official 2 off-premise sign credits which have

been previously issued pursuant to this code or under the provisions of earlier versions of this code.

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, 15.29 and 15.30 of the Rapid City Municipal Code. Any funds remaining in the sign code enforcement fund at the end of the fiscal year shall be appropriated for use by the Rapid City beautification committee, which shall recommend to the Common Council uses of the funds for the purpose of improving the scenic beauty of the city.

F. No sign shall be deemed unlawful for being unlicensed under this section until 90 days after the enactment of this chapter. Any off-premise sign that is not licensed within 90 days of enactment of this chapter is a prohibited sign subject to removal under the provisions of § 15.28.040 of this code.

15.28.070 Sign Contractor License required.

No person shall engage in the business of constructing signs without obtaining a sign contractor license.

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 from the Building Official as required by this code.

2. Every sign building permit issued by the Building Official shall expire and become null and void if construction of the sign does not commence within 60 days from the date the permit is issued. All sign building permits shall expire 120 days from the date the permit is issued. For good cause, the Building Official may extend the time limitations for up to an additional 120 days. Any extension granted shall be accompanied by a fee equal to one-half of the original permit fee paid to the city.

3. No new off-premise sign shall be permitted unless the applicant has first obtained an off-premise sign license as required by § 15.28.060 of this code.

B. Exemptions. The following types of signs and activities are exempt from the provisions of § 15.28.080A.:

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.

2. *Construction signs.* One sign shall be allowed per lot. The sign shall not exceed 32 square feet in area, and shall not be erected until a building permit has been issued. The sign shall be removed within 14 days after the issuance of a certificate of occupancy;
3. Directional signs entirely on the premises where the sign is located. Directional signs under this provision shall not exceed 5 square feet in area;
4. Corporate flags or emblems limited to a maximum of 1 per premises;
5. Flags of any nation or political subdivision with a maximum number of 1 flag type per premises, per street frontage;
6. Traffic control devices and other similar signs placed by the City or State, directional signs placed by the City, State or authorized by the City or State and signs authorized by the City's Traffic Engineer pursuant to the authority granted to him by the City 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 the 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 2 square feet in area, which are fastened directly to the building and which do not contain an advertising message;
10. Real estate signs, subject to the following restrictions:
 - a. *Residentially zoned lots or parcels.*
 - i. *Less than 1 acre.* One sign per street frontage not to exceed 6 square feet per sign.
 - ii. *At least 1 acre but not greater than 5 acres.* One sign per street frontage not to exceed 32 square feet per sign.

iii. *Greater than 5 acres but less than 10 acres.* Two signs not to exceed 32 square feet per sign, or 1 sign not to exceed 64 square feet.

iv. *Ten acres or more.* Three signs not to exceed 32 square feet per sign, or 2 signs not to exceed 48 square feet, or 1 sign not to exceed 96 square feet.

b. *All other zoned lots or parcels.*

i. *Less than 1 acre.* One sign per street frontage not to exceed 32 square feet per sign.

ii. *At least 1 acre but not greater than 5 acres.* One sign per street frontage not to exceed 64 square feet per sign.

iii. *Greater than 5 acres but less than 10 acres.* Two signs not to exceed 64 square feet per sign, or 1 sign not to exceed 128 square feet.

iv. *Ten acres or more.* Three signs not to exceed 64 square feet per sign, or 2 signs not to exceed 128 square feet per sign.

c. *Real estate signs, removal.* 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 20 square feet shall be allowed per vacant lot of 1 acre or less upon which the sign is erected. One sign not exceeding 32 square feet shall be allowed per vacant lot of more than 1 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:

i. One sign per complex not to exceed 32 square feet;

ii. One sign per model not to exceed 6 square feet;

iii. Two traffic direction signs, not to exceed 4 square feet each; and

iv. 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:

i. A maximum of 4 signs are allowed per open house;

ii. Signs may be put up 1 hour before opening and must be removed 1 hour after closing the open house;

iii. Landowner permission is required before a sign may be placed on their property; and

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

11. Window signs covering up to 25% of the area per window;

12. Temporary political signs are allowed so long as they are not located within the public right of way, a required sight triangle or a required parking stall or parking area. Temporary political signs are limited to 32 total square feet and a maximum height of 8 feet;

13. Identifying logos on municipally owned water storage reservoirs, when directed by the City Council;

15.28.090 Sign permit application.

Application for a sign 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 if applicable;

B. Name and address of owner or the person in possession of the premises where the sign is located or to be located if not the same as the sign owner;

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; and

E. Other such data and information as may be required by the Building Official.

15.28.100 Sign permit fees.

The fees for sign building permits shall be based on the most recent building code fee tables adopted by the City. The permit fee for electrical signs or outline lighting shall be identical to the fees established in 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 for compliance with the City code.

15.28.120 Construction specifications.

A. Supports for signs and sign structures shall be built in to conformanee with the requirements of the current building codes as adopted by the City 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 non-combustibility, 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 the following tables.

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

TABLE 1

[Click here to view a PDF document of Table 1.](#)

TABLE 2

[Click here to view a PDF document of Table 2.](#)

15.28.130 Electrical signs.

A. Electrical signs shall be constructed in accordance with the provisions of the Administrative Rules of South Dakota (ARSD) 20:44:22, the National Electrical Code and the City's 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.

B. 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 10:44:22:02, 20:44:22:03 and 20:44:22:04 and the National Electrical Code 600-3.

C. Electrical signs and outline lighting shall be marked with the manufacturers name, voltage input, and current rating. The marking required by this section and the label of a recognized testing lab, shall be located in a visible location and readable from both grade and the sign's electrical disconnect.

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

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

F. 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 premise signs must comply with the requirements of § 15.28.160(M).

15.28.140 Maintenance.

All signs and sign structures shall be in good repair, and shall be maintained so as to protect from deterioration, damage, decay and/or abandonment.

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 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 60 days (the cure period), the sign will be subject to immediate removal pursuant to § 15.28.040 of this code.

15.28.160 Sign brightness.

Any sign that is internally illuminated, or which displays electronic variable messages through light emitting diodes, liquid crystal display, plasma image display, or any other light emitting mechanism must be equipped with automatic dimming technology that automatically adjusts the display's brightness based upon ambient light conditions. The brightness level for signs shall not exceed a brightness level of 0.3 foot candles above ambient light as measured using a foot candle (Lux) meter at a preset distance depending on sign area, measured as follows:

Area of Sign sq. ft.	Measurement Distance (ft.)
10	32
15	39
20	45
25	50
30	55
35	59
40	63
45	67
50	71
55	74
60	77
65	81
70	84
75	87
80	89
85	92
90	95
95	97
100	100

For signs with an area in square feet other than those specifically listed in the table (i.e., 12 sq. ft, 400 sq. ft, etc.), the measurement distance may be calculated with the following formula: The square root of the product of the sign area and one-hundred.

Example using a 12-square-foot sign:

$$\text{Measurement Distance} = \sqrt{(12 \text{ Sq. Ft.} \times 100)} = 34.6$$

The brightness measurement shall be performed as follows:

1. At least 30 minutes after sunset or 30 minutes before sunrise, the Building Official shall measure and determine the sign's brightness by aiming a foot-candle meter directly at the sign. The measurement will be taken as close as possible to the above prescribed distance from the sign face being measured.

2. After the sign brightness has been determined, the Building Official shall contact the sign owner or the owner's agent to schedule a time to measure and determine the ambient light conditions with the electronic messaging center off or while displaying all black copy. The ambient light reading shall be taken with the same foot-candle meter at the same location used to establish the sign's brightness.

3. Once the two light readings have been determined, the second measurement reading shall be subtracted from the first measurement reading. To be in compliance with this standard, the difference of the two readings shall be 0.3 foot-candles or less.

15.28.170 Existing Digital, LED or video type signage.

Existing off-premises signs and public purpose signs displaying variable messages through the use of internal illumination technology or through light emitting diodes, liquid crystal displays, plasma image displays, or any other similar light emitting technology may only display static messages. Full motion images, graphics or video are prohibited. Static copy on these signs may be changed at a minimum interval of eight (8) seconds.

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 12 square feet. No more than 3 sign benches shall be located on any premises. Sign benches must be located within a 50-foot radius of each other. Sign benches must meet the spacing requirements of § 15.28.160.

15.28.190 Historic sign requirements.

A. *Purpose.* 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.* 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 5 persons:

1. Historic property owner or business owner;
2. Architect;
3. Sign contractor;
4. Member of Historic Preservation Commission; and
5. Member of Sign Code Board of Appeals.

C. *Length of term.* Members shall be appointed by the Mayor and approved by the Common Council for terms of 3 years. The Committee shall elect a Chairperson from its membership to serve for a term of 1 year.

D. In considering sign permits within historic districts, the Historic Sign Review Committee shall consider the following criteria: 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 permit must, in addition to the requirements of § 15.28.090, 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 the 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 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 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.

15.28.200 Shopping center entrance signs.

A. The provisions of this section apply to shopping center entrance signs. A shopping center entrance sign is a sign placed at the entrance of a community shopping center that is part of a planned development of at least 25 acres. For the purposes of this chapter, a community shopping center must consist of a grouping of retail shops and stores planned and designed as an integrated unit which provide goods and services for people within a 30 minute drive.

B. Shopping center entrance signage may be on-premises or off-premises so long as it is located within 2,500 feet of the exterior boundaries of the planned development it is part of.

C. Shopping center entrance signage can only identify the shopping center and/or the businesses and shopping center tenants that are located within the planned development.

D. Shopping center entrance signs shall be ground mounted, monument style signs. Signs that are raised off of the ground or are mounted on poles or pylons are not allowed.

E. Shopping center entrance signs shall not exceed 15 feet in height and 200 total square feet in area per sign.

F. The location and design of any shopping center entrance sign must be reviewed and approved as part of a planned development. Specific attention should be paid to the location of the proposed shopping center entrance sign in relation to other off-premises and on-premises

signs in the vicinity. Any alteration of the sign other than the changing of the names located on the sign shall be a major amendment to the planned development.

G. Shopping center entrance signs shall not be located within any clear sight triangle as set forth in the Rapid City Municipal Code.

H. Shopping center entrance signs are exempt from the following provisions of the Rapid City Municipal Code:

1. Section 15.28.060(D);
2. Section 15.29.020; and
3. Section 15.30.020.

15.28.210 Miscellaneous signs.

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

A. A permit may be issued to a business, public entity, or a civic, charitable or fraternal organization for a temporary banner, pennant, sandwich board sign or air gas filled figure. A temporary sign shall not exceed 15 feet in height. A permit may be issued up to twice a year to the same business or organization and shall be issued for a maximum duration of 30 days. The permit may authorize temporary signage at multiple locations throughout the City. The fee for this permit will be calculated in the same manner as the permit fee for on on-premises sign permit.

B. Public or private institutions, school, nonprofit membership organizations, and philanthropic institutions that are educational, cultural, religious or recreational in nature and located in a zoning district that does not otherwise provide for on-premises signage may display on-premises signs. However, such sign or part thereof shall not contain a commercial advertising message. The signs shall comply with the following:

1. One on-premises ground sign shall be allowed per street frontage. The maximum height and area of the sign shall be based on its distance from the street frontage based on the following table:

Distance from Street Frontage	Maximum Height	Maximum Area
0 to 50 ft.	8 ft.	32 sq.ft.
50 to 200 ft.	15 ft.	64 sq.ft.
Over 200 ft.	20 ft.	120 sq.ft.

2. One on-premises wall sign shall be allowed per street frontage. The maximum area for the signs is based on the distance from the street frontage and is identical to the area allowed for on-premises ground signs. The height of the wall sign is dependent on the height of the

building and is not subject to the restrictions on height for on-premises ground signs. If a wall sign is directly adjacent to a walking or other paved surface, it must be at least 8 ft. from the lowest part of the sign to the surface grade.

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

4. Electric signs shall comply with § 15.28.130.

C. For home businesses or occupations located in residential zoning districts, the total area of wall signs or ground signs is 1 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 1 such sign per street frontage is allowed;

2. The maximum height of the sign shall be 5 feet; and

D. Wall signs or ground signs for a commercial use in a residential district or a home occupation may be 1 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's Municipal Code.

F. In addition to any applicable requirements of Section 15.28.160, the light from any light source intended to illuminate a miscellaneous sign, or emanating from an internally illuminated miscellaneous sign, shall be so shaded, shielded, directed or of such an intensity that the 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. If a miscellaneous sign is located in a residential zoning district, any illumination will be turned off from 10:00 p.m. to 6:00 a.m.

15.28.220 Joint identification signs.

A. A joint identification sign is defined as a sign designed to identify multiple business located in a specific area that has been designated as a development complex by the Director of Community Planning or their designee regardless of whether said establishments occupy separate structures or are under separate ownership.

B. A development complex is defined as a shopping center or 3 or more businesses in close proximity to each other that are part of a common development where joint identification signs will be allowed. The factors to consider in determining if a shopping center or 3 or more businesses in close proximity to each other are part of a common development are the layout of the site, the ownership of the land and whether or not the businesses share access, customer parking areas or other common areas. It is not required that the lots within a development complex be under common ownership if other factors which support the finding that a shopping center or grouping of 3 or more businesses are part of a common development are present. If the

area being designated as a development complex for purposes of allowing a joint identification sign contains lots that are under separate ownership, all the lot owners must consent to the designation.

C. In addition to a sign permit, an applicant requesting to designate an area as a development complex must submit information relating to the factors described in subsection B. The Director of Community Planning or their designee will review the information submitted and in addition to determining whether or not the proposed joint identification sign is in compliance with the requirements of the code pertaining to joint identification signs, will determine whether or not to designate the requested area as a development complex. Any person or group aggrieved by the decision of the Director of Community Planning or their designee to designate an area as a development complex may appeal such decision to the Sign Code Board of Appeals. The time for appealing this determination shall be limited to 7 days but shall otherwise be governed by Section 15.28.270 of this code. The Building Official cannot issue a sign permit until the time for appeal has expired.

D. Joint identification signs will be treated as on-premises signs for all businesses located within the development complex whether or not they are located on the same legally described parcel as the sign. Joint identification signs can only identify those businesses or activities that are located within the development complex.

E. Each development complex shall be permitted 1 monument sign per public street frontage. For purposes of this section, a monument sign is defined as a freestanding sign not erected on one or more poles or other similar supports but erected to rest on the ground or on a base designed as an architectural unit with the sign. Individual on-premises ground signs will not be allowed for business located within the development complex. There shall be a minimum distance of 100 feet between joint identification signs. Each business will be allowed to have on-premises wall signs as allowed under this code.

F. Joint identification signs will be allowed to have a maximum area of 100 square feet or 1 square foot of sign for each 2 linear feet of street frontage of the development complex, whichever is greater. Provided that the total area of all signs on each frontage shall not exceed 200 square feet.

G. The maximum height of a joint identification sign shall be 15 feet.

H. Joint identification signs must be located on property that has been designated as part of the development complex. No joint identification sign can be located closer than 10 feet from any external boundary of the development complex.

15.28.230 Non-conforming signs.

Any sign which was legal at the time it was constructed is a legal non-conforming sign. A legal non-conforming sign which is moved, relocated, structurally altered, or damaged by more than 50% of the signs value at the time the damage occurs, must be brought in to full compliance with all requirements of the Rapid City Municipal Code. Any legal non-conforming sign which

is structurally altered and is not brought into compliance with all requirements of the Rapid City Municipal Code shall be deemed unlawful by the Building Official and removed in accordance with § 15.28.040 of this Rapid City Municipal Code or any other applicable regulations related to unlawful signs.

15.28.240 Severability.

If any section, sentence, clause, phrase or other portion of this chapter 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 chapter.

15.28.250 Appeals.

A. There is created a Sign Code Board of Appeals to hear and decide appeals and decisions made by the Building Official.

B. Members shall be appointed by the Mayor and approved by the Common Council for terms of 3 years. A total of 5 members and 2 alternates shall be appointed to the Board from the following groups:

1. One member from the Common Council;
2. One member from the sign construction industry;
3. One citizen member;
4. One member from the architectural community;
5. One member from the Planning Commission; and

6. Two alternates. If the 2 appointed alternates are not available for a given meeting, then any member of the Common Council may serve as an alternate.

C. A Chairperson shall be elected annually by the Sign Code Board of Appeals. A minimum of 3 members must be present at a meeting to establish a quorum for voting purposes. A simple majority vote shall be used for voting purposes.

D. The Sign Code Board of Appeals shall adopt rules in accordance with this code. Meetings of the Board shall be called by the Chairperson and/or Building Official and shall be held at a set time and place. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, indicating if absent or failing to vote, and shall keep records of its examinations and other official actions. A quorum of voting members of the Board shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance.

E. Sign appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the city affected by any decision of the Building Official. The appeals shall be taken within thirty days from the date of the decision by filing with the Building Official a notice of appeal specifying the grounds thereof, and by paying a filing fee of \$75 at the office of the Building Official.

F. The Board of appeals shall fix a reasonable time for the hearing of the appeal, giving public notice in the local newspaper 7 days prior to the hearing. The appellant shall notify, by certified mail, adjacent premises that an appeal is being made. The letter shall be provided by the Building Official.

G. The Board of Appeals shall have the following powers:

1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the interpretation or enforcement of this chapter;

2. The Board of Appeals is empowered to authorize a variance from the strict application of this chapter when:

a. There exists exceptional topographic conditions or other extraordinary or exceptional situation or condition of a specific premises not prevalent in the area; and

b. Where the strict application of this chapter will result in unnecessary hardship.

3. Appeals shall not be considered for the following:

a. Signs that violate some other law or ordinance regulating signs; and

b. Prohibited Signs as regulated by § 15.28.050.

H. Sign appeals approved for off-premises signs shall allow for only one advertising message. Any appeal approved by the Sign Code Board of Appeals, subsequent to the adoption of the ordinance codified in this chapter, shall run with the business which shall retain the right to alter the advertising content of the sign. In the event the business relocates or otherwise ceases operation on the premises that was the situs of the appeal the rights granted under the appeal shall be extinguished.

I. Appeals.

1. Any person aggrieved or by any officer, department, board or bureau of the city affected by any decision of the Building Official may appeal to the Common Council the decision of the Sign Code Board of Appeals. Appeals shall be heard at the next regular Council meeting after the filing of the notice of appeal unless the meeting is less than 10 business days after the filing of the notice of appeal, in which case the appeal shall be heard at the following regular Common Council meeting.

2. The appeals shall be taken by filing with the Finance Office a notice of appeal specifying the grounds thereof within 7 days of the decision of the Sign Code Board of Appeals. The appellant shall notify, by certified mail, adjacent premises that an appeal is being made. The notice shall be in substantially the same form as the notice required by the Building Official prior to appeal to the Sign Code Board of Appeals. Proof of the notification shall be a prerequisite to any hearing before the Common Council.

3. The Common Council shall have the power to authorize a variance from the strict application of this chapter when (1) there exists exceptional topographic conditions or other extraordinary or exceptional situation or condition of a specific premises not prevalent in the area; and (2) where the strict application of this chapter will result in unnecessary hardship. For purposes of this section, unnecessary hardship may not be found when the only disadvantage to the applicant is financial, or when the hardship is self-imposed.

4. Appeals shall not be considered for signs that violate some other law or ordinance regulating signs or for signs as regulated by § 15.28.050.

15.28.260 Replacement of condemned signs.

A. Notwithstanding any other provision of this chapter, any off-premise sign which is removed under the eminent domain authority of any governmental unit as a part of a publicly funded construction project may be replaced in accordance with subsection B.

B. 1. Prior to removal, the governmental unit proposing to relocate the off-premise sign shall make an application to the Building Official for permission to relocate an off-premise sign. The governmental unit applying for permission to relocate an off-premise sign shall provide on its application its certification that the sign is being removed pursuant to its eminent domain authority for the purpose of undertaking the construction of a publicly funded construction project, the location, size, and a description of the existing off-premise sign, and all information required for applications for new off-premise signs for the proposed location of the new sign. The governmental unit is not required to supply off-premise sign credits to make the application under this section.

2. Upon receipt of the application from a governmental unit, the Building Official shall review the application for completeness. The Building Official shall have the request placed upon the next available Public Works agenda.

3. Prior to the next available Public Works agenda, the Building Official shall make an on-site inspection of the off-premise sign. If the Building Official determines that the off-premise sign that is the subject of the application for relocation is an illegal sign, he or she shall proceed in accordance with the provisions of this chapter regarding the removal of illegal signs. No illegal sign may be relocated. If the Building Official determines that the sign is not an illegal sign, he or she shall report that fact to the Public Works Committee.

4. Upon receipt of the application for relocation of the off-premise sign and the report of the Building Official, the Public Works Committee shall recommend to the Council whether to authorize the relocation of the off-premise sign.

5. Upon receipt of the recommendation of the Public Works Committee, the Council may authorize the removal and relocation of the off-premise sign. The decision of the Council is final.

6. Any off-premise sign relocated under the authority of this section shall be constructed in such a manner as to comply with the requirements of this Chapter pertaining to the size, height, and all structural requirements of this Chapter and all other provisions of the Rapid City Municipal Code regulating the construction of structures.

7. Upon the approval of the application for relocation, the governmental unit or the owner of the relocated sign may apply for a conditional use permit as required by Title 17 of the Rapid City Municipal Code. No sign authorized to be relocated by under the provisions of this section shall be constructed until all the requirements of Title 17 are met.

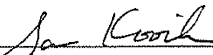
15.28.270 Substitution of noncommercial speech for commercial speech.

Notwithstanding any other provision of this chapter to the contrary, any lawfully erected off-premises or other sign displaying a commercial message may, at the option of the owner, display a noncommercial message. The noncommercial message may occupy the entire sign face or any portion thereof. The sign face may be changed from commercial to noncommercial messages, or from one noncommercial message to another, as frequently as desired by the owner of the sign, in compliance with the rest of this chapter, provided that the sign is not a prohibited sign or sign-type and provided that the size, height, setback, dimensional and other criteria contained in this chapter are satisfied.

15.28.280 Penalty.

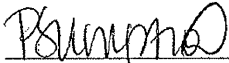
In addition to any administrative actions or remedies authorized by this code, a violation of this Chapter shall be subject to the City's General Penalty provision, § 1.12.010 of this code.

CITY OF RAPID CITY



Mayor

ATTEST:



Finance Officer

(SEAL)

First Reading:	June 4, 2012
Second Reading:	June 18, 2012
Published:	June 23, 2012
	June 30, 2012
Effective:	July 20, 2012

[Print](#)

Rapid City, SD Code of Ordinances

17.50.080 Signage.

A. *Definitions.* For the purpose of this section, §§ 17.50.090 and 17.50.100, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED SIGN. An on-premises or off-premises sign which meets 1 or more of the following:

- a. 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;
- b. The business it advertises has discontinued business in the city of Rapid City;
- c. Any sign declared unlawful by the Building Official;
- d. Any sign not properly maintained or which no longer displays an advertising message.

ADVERTISING MESSAGE. The copy on a sign which advertises goods, products, services, persons, or public messages.

ANIMATION. Any sign which includes moving graphics, symbols, designs, pictures, or animated creations produced on a digital display, plasma display, LCD display, or other similar technology. For purposes of this code, this item does not refer to flashing, which is separately defined.

AWNING. A shelter supported entirely from the exterior wall of a building.

AWNING SIGN. Any sign attached or incorporated into an awning.

BANNER. 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. All window and wall area of a building in 1 plane or elevation.

BUILDING OFFICIAL. The officer or other designated authority charged with the administration and enforcement of this code.

CANOPY. See *AWNING*.

CHANGEABLE COPY SIGN. A sign on which copy is changed manually in the field.

CITY. The city of Rapid City.

COMMON COUNCIL. The Common Council of Rapid City.

COPY. The message on a sign surface either in permanent, temporary or removable form.

COUNTY. Pennington County, South Dakota.

DIRECTIONAL SIGN. Any sign which serves solely to designate the location or direction to a

place or area.

DISPLAY SURFACE. The area made available by the sign structure for the purpose of displaying the advertising message.

EARTH TONE. A color such as tan or light brown as approved by the Building Official.

ELECTRICAL SIGN. Any sign containing electrically illuminated utilization equipment with words or symbols designed to convey information or attract attention.

ELECTRONIC MESSAGE CENTER. An on-premises sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means.

ERECTED. Attached, altered, built, constructed, reconstructed, enlarged or moved, and shall include the painting of wall signs, but does not include changing the copy on any sign.

EXEMPT SIGN. A sign for which a permit is not required.

FLAG. 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. Any sign displaying a pattern of rapidly changing light illumination where the illumination on the sign alternates suddenly between high and low intensity for the purpose of drawing attention to the sign.

FRONTAGE. 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. A sign erected on a foundation, free-standing frame, mast or pole which is not attached to any building or other structure.

HEIGHT OF SIGN. 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. 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. A multi-face sign capable of showing multiple advertising messages in the same area through the manual rotation of vertical or horizontal sections of the sign face.

LAWFUL NONCONFORMING SIGN. A sign or sign structure which does not comply with all provisions of this code, but which was legal at the time it was constructed.

LOT. 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. To allow a sign to exist or remain, or to repair or refurbish a sign in order to prevent decay or deterioration.

MARQUEE. A permanent roofed structure attached to and supported by the building and projecting out from a building or structure.

MARQUEE SIGN. Any sign attached to or constructed in or on a marquee.

MESSAGE. A communication through written words, symbols, signals, or pictures.

OFF-PREMISES SIGN. 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.

ON-PREMISES SIGN. 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.

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

OUTLINE LIGHTING. 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. 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. That portion of a building wall that rises above the roof level.

PEDESTRIAN SIGN. A sign that advertises to pedestrian traffic as regulated by § 17.50.080S.

PERSON. 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. A legally described parcel of land where a sign is physically located.

PROJECTING SIGNS. 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**.

RAPID CITY SIGN CODE. Sections 17.50.080, 17.50.090 and 17.50.100 of the Rapid City Municipal Code.

REAL ESTATE or PROPERTY FOR SALE, RENT OR LEASE SIGN. Any sign pertaining to the sale, lease or rental of land or buildings.

ROOF LINE. The top edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette.

ROOF SIGN. Any sign erected upon, against or directly above a roof or on top of or above the parapet of a building.

ROTATING SIGN. Any sign or portion of a sign which moves in a revolving or similar manner.

SCROLLING. The horizontal and/or vertical movement of an advertising message across the face of an electric messaging center sign.

SIGN. Any identification, description, illustration or device illuminated or non-illuminated, 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. The total area or areas of all signs within the outer edges of the sign or advertising message.

SIGN STRUCTURE. Any structure which supports, has supported, or is capable of supporting a sign, including a decorative cover.

STREET. A public or private right-of-way which affords the principal means of access to abutting property.

STRUCTURAL ALTERATION or STRUCTURAL CHANGE. Any change, modification or alteration of a sign or sign structure, except changing the copy or advertising message on a sign, painting the sign, changing light bulbs, performing routine maintenance and upgrades on a sign's wiring or electrical systems, or installing energy saving technology or maintaining or replacing the digital components or digital modules on existing digital signs up to and including replacing the entire digital cabinet and adjusting the mounting methods as necessary, so long as the change does not require any other changes or modifications to the sign structure in addition to the device being installed.

TEMPORARY SIGN. A sign which is not permanently erected or affixed.

UNLAWFUL SIGN. 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.

USE. The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained.

WALL. 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 60 degrees or greater with the horizontal plane.

WALL SIGN. 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.

B. *Administration.* The provisions of this section apply to the Rapid City Sign Code.

1. The Building Official is authorized and directed to enforce all the provisions of this code.
2. 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. The interpretations, rules and regulations shall be in conformance with the intent and purpose of this code.
3. The Building Official may deputize inspectors or employees as may be necessary to assist in carrying out the administration and enforcement of this code.
4. 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.

5. Whenever the 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 the work to be done. Work must then be stopped until otherwise authorized by the Building Official.

6. 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.

7. 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 section conflict with other portions, or portions of this section 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.

C. *Enforcement.*

1. The Building Official may declare any sign unlawful if it is not properly maintained, if it is not structurally sound, if it has been abandoned, if it was erected without a proper permit, if it does not qualify as a legal non-conforming sign and violates some provision of this code, or if it is in violation of any other provision of the city code, state law or federal law.

2. 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 a specified period of time as determined by the Building Official, the sign shall be removed in accordance with the provisions of this section. The owner of the building, structure, premises, or sign shall be responsible for the cost of removing the sign or sign structure.

3. Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of the 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 assessments 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 the person, at the address of the premises where the unlawful sign is located. The failure of any such person to receive the 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.

4. Notwithstanding any other provision of this code, an unlawful sign is declared a nuisance and may be abated as such under applicable state laws and city ordinances.

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

1. Off-premises or public purpose signs incorporating animation, graphics, pictures or video which is in motion.

2. Signs incorporating noise, blasts, vibration or dust;
3. Signs incorporating flashing, blinking or traveling lights;
4. Any sign or portion of a sign which moves or assumes any motion constituting a non-stationary position, except barber poles and signs attached to or placed upon a motor vehicle;
5. Abandoned signs or unlawful signs;
6. A sign attached to, or painted on, a motor vehicle or trailer that is parked on, or adjacent to, property for more than 24 consecutive hours, the principal purpose of which is to serve as a stationary advertising device and to attract attention to a good service, business or product, not including vehicle sales. A logo or business name on a motor vehicle or on equipment, shall not be prohibited unless the motor vehicle or equipment is being used as a stationary advertising device. However, this prohibition shall not include trailer-mounted signs when the gross weight of the sign and the trailer is less than 1,000 pounds;
7. Signs located in the public right-of-way unless otherwise allowed by another provision of city ordinance, state law or federal law;
8. Banners, pennants, search lights, streamer, twirling signs, sandwich board signs, sidewalk or curb signs, balloons, air and gas-filled figures shall be prohibited except when permitted pursuant to § 17.50.080S.1.;
9. Flags displaying an advertising message, excluding flags of any nation, state, political subdivision, or corporate flag;
10. Projecting signs, except pedestrian-oriented signs that do not exceed 8 square feet;
11. Off-premises roof signs;
12. On-premises roof signs;
13. Off-premises wall signs;
14. Indexing signs, as defined herein;
15. 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;
16. Off-premises sign constructed with more than 1 display surface per side;
17. Off-premises sign in a position or shape other than horizontal whose height is greater than its width;
18. Off-premises ground signs with faces constructed at any angle greater than 20 degrees as measured by any angle between the 2 faces;
19. Off-premises signs with a face width greater than 30 feet or a face height greater than 15 feet;
20. Off-premises signs with internal illumination or displaying electronic variable messages are prohibited. Any new off-premises sign is prohibited if it is internally illuminated or operates to display electronic variable messages through light emitting diodes or any other light emitting

mechanism. An existing off-premises sign may not be converted to a sign that is internally illuminated or operates to display electronic variable messages through light emitting diodes, liquid crystal display, plasma image display, or any other light emitting mechanism.

E. *Off-premises sign license.*

1. Every off premises sign shall have an off-premise sign license issued by the Building Official. The Common Council shall establish the fee for each off-premises sign license by resolution. One license shall be required per structure.
2. Off-premises sign licenses expire on December 31 of the year in which the license is purchased.
3. Any off-premises sign that does not have an off-premises sign license by February 1 of any year is an unlawful sign as defined under this code and is subject to removal under the provisions of § 17.50.080C.
4. No off-premises sign license shall be issued for a new off-premises sign unless the owner of the sign shall surrender to the Building Official 2 off-premise sign credits which have been previously issued pursuant to this code or under the provisions of earlier versions of this code.
5. 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 §§ 17.50.080, 17.50.090 and 17.50.100 of the Rapid City Municipal Code.
6. No sign shall be deemed unlawful for being unlicensed under this section until 90 days after the enactment of this section. Any off-premise sign that is not licensed within 90 days of enactment of this section is a prohibited sign subject to removal under the provisions of § 17.50.080C. of this code.

F. *Sign contractor license required.* No person shall engage in the business of constructing signs without obtaining the required contractor license(s) issued by the Building Official.

G. *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 from the Building Official as required by this code.
2. Every sign building permit issued by the Building Official shall expire and become null and void if construction of the sign does not commence within 60 days from the date the permit is issued. All sign building permits shall expire 120 days from the date the permit is issued. For good cause, the Building Official may extend the time limitations for up to an additional 120 days. Any extension granted shall be accompanied by a fee equal to one-half of the original permit fee paid to the city.
3. No new off-premise sign shall be permitted unless the applicant has first obtained an off-premise sign license as required by § 17.50.080E. of this code.

H. *Exemptions.* The following types of signs and activities are exempt from the provisions of § 17.50.080G.:

1. So long as structural changes are not made, changing the advertising copy or message; painting, maintaining and/or repairing an existing lawful sign; changing light bulbs; performing

routine maintenance and upgrades on a sign's wiring or electrical systems; or installing energy saving technology or maintaining or replacing the digital components or digital modules on existing digital signs up to and including replacing the entire digital cabinet and adjusting the mounting methods as necessary, so long as the change does not require any other changes or modifications to the sign structure in addition to the device being installed.

2. One construction sign shall be allowed per lot. The sign shall not exceed 32 square feet in area, and shall not be erected until a building permit has been issued. The sign shall be removed within 14 days after the issuance of a certificate of occupancy;

3. Directional signs entirely on the premises where the sign is located. Directional signs under this provision shall not exceed 5 square feet in area;

4. Corporate flags or emblems limited to a maximum of 1 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 other similar signs placed by the city or state, directional signs placed by the city, state or authorized by the city or state and signs authorized by the City's Traffic Engineer pursuant to the authority granted to him or her by the city 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, stadium; or ice rink; 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 the 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 2 square feet in area, which are fastened directly to the building and which do not contain an advertising message;

10. Window signs covering up to 25% of the area per window;

11. Temporary political signs are allowed so long as they are not located within the public right of way, a required sight triangle or a required parking stall or parking area. Temporary political signs are limited to 32 total square feet and a maximum height of 8 feet;

12. Identifying logos on municipally owned water storage reservoirs, when directed by the City Council;

13. Real estate signs, subject to the following restrictions:

a. *Residentially zoned lots or parcels.*

- i. *Less than 1 acre.* One sign per street frontage not to exceed 6 square feet per sign.
 - ii. *At least 1 acre but not greater than 5 acres.* One sign per street frontage not to exceed 32 square feet per sign.
 - iii. *Greater than 5 acres but less than 10 acres.* Two signs not to exceed 32 square feet per sign, or 1 sign not to exceed 64 square feet.
 - iv. *Ten acres or more.* Three signs not to exceed 32 square feet per sign, or 2 signs not to exceed 48 square feet, or 1 sign not to exceed 96 square feet.
- b. *All other zoned lots or parcels.*
- i. *Less than 1 acre.* One sign per street frontage not to exceed 32 square feet per sign.
 - ii. *At least 1 acre but not greater than 5 acres.* One sign per street frontage not to exceed 64 square feet per sign.
 - iii. *Greater than 5 acres but less than 10 acres.* Two signs not to exceed 64 square feet per sign, or 1 sign not to exceed 128 square feet.
 - iv. *Ten acres or more.* Three signs not to exceed 64 square feet per sign, or 2 signs not to exceed 128 square feet per sign.
- c. *Real estate signs, removal.* 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 20 square feet shall be allowed per vacant lot of 1 acre or less upon which the sign is erected. One sign not exceeding 32 square feet shall be allowed per vacant lot of more than 1 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:
- i. One sign per complex not to exceed 32 square feet;
 - ii. One sign per model not to exceed 6 square feet;
 - iii. Two traffic direction signs, not to exceed 4 square feet each; and
 - iv. 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:
- i. A maximum of 4 signs are allowed per open house;
 - ii. Signs may be put up 1 hour before opening and must be removed 1 hour after closing the open house;
 - iii. Landowner permission is required before a sign may be placed on their property; and
 - iv. Signs may not be placed in the public rights-of-way or medians.

I. *Sign permit application, fees, and inspection requirements.*

1. Application for a sign 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 if applicable;
- b. Name and address of owner or the person in possession of the premises where the sign is located or to be located if not the same as the sign owner;
- c. Clear and legible drawings drawn to scale with description 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; and
- e. Other such data and information as may be required by the Building Official.

2. The fees for sign building permits shall be based on the most recent building code fee tables adopted by the City Council by resolution. The permit fee for electrical signs or outline lighting shall be identical to the fees established in the State Wiring Bulletin, as adopted by the City Council by resolution.

3. All signs and sign structures shall be subject to inspection by the Building Official for compliance with the city code.

J. *Construction specifications.*

1. Supports for signs and sign structures shall be built to conform to the requirements of the current building codes as adopted by the city for wind loads, seismic loads, and other combined loads.

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

3. The Building Official may require an applicant for a sign permit to submit a stamped set of engineered drawings for any sign in accordance with the adopted building codes.

K. *Electrical signs.*

1. Electrical signs shall be constructed in accordance with the provisions of the Administrative Rules of South Dakota (ARSD) 20:44:22, the National Electrical Code and the city's 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.

2. 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 Council by resolution. Electrical signs and outline lighting shall be listed and labeled in accordance with ARSD 10:44:22:02, 20:44:22:03 and 20:44:22:04 and the National Electrical Code 600-3.

3. Electrical signs and outline lighting shall be marked with the manufacturers name, voltage input, and current rating. The marking required by this section and the label of a recognized testing lab, shall be located in a visible location and readable from both grade and the sign's electrical disconnect.

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

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

6. 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 premise signs must comply with the requirements of § 17.50.080N.

L. *Maintenance.* All signs and sign structures shall be in good repair, and shall be maintained so as to protect from deterioration, damage, decay and/or abandonment.

M. *Advertising message required.* All signs shall display an advertising message. If any sign fails to display a full face advertising message for 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 60 days (the cure period), the sign will be subject to immediate removal pursuant to § 17.50.080C. of this code.

N. *Sign brightness.*

1. Any sign that is internally illuminated, or which displays electronic variable messages through light emitting diodes, liquid crystal display, plasma image display, or any other light emitting mechanism must be equipped with automatic dimming technology that automatically adjusts the display's brightness based upon ambient light conditions. The brightness level for signs shall not exceed a brightness level of 0.3 foot candles above ambient light as measured using a foot candle (Lux) meter at a preset distance depending on sign area, measured as follows:

<i>Area of Sign Sq. ft.</i>	<i>Measurement Distance (ft.)</i>
10	32
15	39
20	45
25	50
30	55
35	59
40	63
45	67
50	71
55	74
60	77
65	81
70	84
75	87
80	89
85	92

90	95
95	97
100	100

2. For signs with an area in square feet other than those specifically listed in the table (i.e., 12 sq. ft., 400 sq. ft., etc.), the measurement distance may be calculated with the following formula: The square root of the product of the sign area and 100.

Example using a 12-square-foot sign:

$$\text{Measurement Distance} = (12 \text{ sq. ft.} \times 100) = 34.6$$

3. The brightness measurement shall be performed as follows:

a. At least 30 minutes after sunset or 30 minutes before sunrise, the Building Official shall measure and determine the sign’s brightness by aiming a foot-candle meter directly at the sign. The measurement will be taken as close as possible to the above prescribed distance from the sign face being measured.

b. After the sign brightness has been determined, the Building Official shall contact the sign owner or the owner’s agent to schedule a time to measure and determine the ambient light conditions with the electronic messaging center off or while displaying all black copy. The ambient light reading shall be taken with the same foot-candle meter at the same location used to establish the sign’s brightness.

c. Once the 2 light readings have been determined, the second measurement reading shall be subtracted from the first measurement reading. To be in compliance with this standard, the difference of the two readings shall be 0.3 foot-candles or less.

O. *Existing digital, LED or video type signage.* Existing off-premises signs and public purpose signs displaying variable messages through the use of internal illumination technology or through light emitting diodes, liquid crystal displays, plasma image displays, or any other similar light emitting technology may only display static messages. Full motion images, graphics or video are prohibited. Static copy on these signs may be changed at a minimum interval of 8 seconds.

P. *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 12 square feet. No more than 3 sign benches shall be located on any premises. Sign benches must be located within a 50-foot radius of each other.

Q. *Historic sign requirements.*

1. *Purpose.* 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.

2. *Historic Sign Review Committee approval.* Approval for any sign located within a historic sign district shall be granted by the Historic Sign Review Committee. This Committee shall consist of 5 persons and include a member of the Historic Preservation Commission. The Historic Preservation Commission shall nominate 1 of their members to serve on the Historic Sign Review Committee as the standing member. The Historic Preservation Commission shall also nominate an alternate from their membership to serve in the absence of the standing member. The remaining 4 members shall be appointed by the Mayor and should include individuals with knowledge and

experience in historic preservation, architecture, sign industry, and/or be a property owner or business owner within the historic district.

3. *Length of term.* Members shall be appointed by the Mayor and approved by the Common Council for terms of 3 years. The Committee shall elect a Chairperson from its membership to serve for a term of 1 year.

4. In considering sign permits within historic districts, the Historic Sign Review Committee shall consider the following criteria: 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 permit must, in addition to the requirements of § 17.50.080I., 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.

5. The Historic Sign Review Committee may adopt rules in accordance with this section. 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 the 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.

6. If the Historic Sign Review Committee approved an application for a sign which meets the criteria established by this section, then a sign 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 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 City Council.

R. *Shopping center entrance signs.*

1. The provisions of this section apply to shopping center entrance signs. A shopping center entrance sign is a sign placed at the entrance of a community shopping center that is part of a Planned Development Overlay District or Planned Unit Development of at least 25 acres. For the purposes of this section, a community shopping center must consist of a grouping of retail shops and stores planned and designed as an integrated unit which provide goods and services for people within a 30-minute drive.

2. Shopping center entrance signage may be on-premises or off-premises so long as it is located within 2,500 feet of the exterior boundaries of the development it is part of.

3. Shopping center entrance signage can only identify the shopping center and/or the businesses and shopping center tenants that are located within the development.

4. Shopping center entrance signs shall be ground mounted, monument style signs. Signs that are raised off of the ground or are mounted on poles or pylons are not allowed.

5. Shopping center entrance signs shall not exceed 15 feet in height and 200 total square feet in area per sign.

6. The location and design of any shopping center entrance sign must be reviewed and

approved as part of a Planned Development Overlay District or Planned Unit Development. Specific attention should be paid to the location of the proposed shopping center entrance sign in relation to other off-premises and on-premises signs in the vicinity. Any alteration of the sign other than the changing of names located on the sign shall follow the planned development overlay amendment process § 17.50.050G. or planned unit development amendment process amendment process § 17.50.060F. and G.

7. Shopping center entrance signs shall not be located within any clear sight triangle as set forth in the Rapid City Municipal Code.

8. Shopping center entrance signs are exempt from the following provisions of the Rapid City Municipal Code:

- a. Section 17.50.080E.4.;
- b. Section 17.50.090B.; and
- c. Section 17.50.100B.

S. *Miscellaneous signs.* The following sign requirements are intended to provide exceptions or qualify and supplement the other requirements of this code:

1. A permit may be issued to a business, public entity, or a civic, charitable or fraternal organization for a temporary banner, pennant, sandwich board sign or air gas filled figure. A temporary sign shall not exceed 15 feet in height. A permit may be issued up to twice a year to the same business or organization and shall be issued for a maximum duration of 30 days. The permit may authorize temporary signage at multiple locations throughout the city. The fee for this permit will be calculated in the same manner as the permit fee for on on-premises sign permit.

2. The City Council may authorize the placement of banners on public light poles and structures which promote the city, any educational institutions within the city, or which promote community events, activities and celebrations. Such banners may not convey a commercial message, but may identify sponsors. The City Council may impose conditions upon which its authorization to mount banners under this section has been given, including the length of time the banner(s) may be located in the authorized location. The City Council may also establish rules and administrative procedures for the mounting of banners under this section and may further enter into agreements with public or private groups to mount and maintain banners on light poles or other public structures within the city.

3. Public or private institutions, school, nonprofit membership organizations, and philanthropic institutions that are educational, cultural, religious or recreational in nature and located in a zoning district that does not otherwise provide for on-premises signage may display on-premises signs. However, such sign or part thereof shall not contain a commercial advertising message. The signs shall comply with the following:

a. One on-premises ground sign shall be allowed per street frontage. The maximum height and area of the sign shall be based on its distance from the street frontage based on the following table:

<i>Distance from Street Frontage</i>	<i>Maximum Height</i>	<i>Maximum Area</i>

0 to 50 ft.	8 ft.	32 sq. ft.
50 to 200 ft.	15 ft.	64 sq. ft.
Over 200 ft.	20 ft.	120 sq. ft.

b. One on-premises wall sign shall be allowed per street frontage. The maximum area for the signs is based on the distance from the street frontage and is identical to the area allowed for on-premises ground signs. The height of the wall sign is dependent on the height of the building and is not subject to the restrictions on height for on-premises ground signs. If a wall sign is directly adjacent to a walking or other paved surface, it must be at least 8 feet from the lowest part of the sign to the surface grade;

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

d. Electric signs shall comply with § 17.50.080K.

4. For home businesses or occupations located in residential zoning districts, the total area of wall signs or ground signs is 1 square foot for each dwelling unit. Wall signs or ground signs for all residential entities on the premises must also meet the following:

a. A maximum of 1 such sign per street frontage is allowed;

b. The maximum height of the sign shall be 5 feet; and

5. Wall signs or ground signs for a commercial use in a residential district or a home occupation may be 1 square foot in size per commercial use or home occupation.

6. Miscellaneous signs shall not be located within any clear sight triangle as set forth by city's Municipal Code.

7. In addition to any applicable requirements of § 17.50.080N., the light from any light source intended to illuminate a miscellaneous sign, or emanating from an internally illuminated miscellaneous sign, shall be so shaded, shielded, directed or of such an intensity that the 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. If a miscellaneous sign is located in a residential zoning district, any illumination will be turned off from 10:00 p.m. to 6:00 a.m.

T. *Joint identification signs.*

1. A **JOINT IDENTIFICATION SIGN** is defined as a sign designed to identify multiple business located in a specific area that has been designated as a development complex by the Director of Community Planning or their designee regardless of whether said establishments occupy separate structures or are under separate ownership.

2. A **DEVELOPMENT COMPLEX** is defined as a shopping center or 3 or more businesses in close proximity to each other that are part of a common development where joint identification signs will be allowed. The factors to consider in determining if a shopping center or 3 or more businesses in close proximity to each other are part of a common development are the layout of the site, the ownership of the land and whether or not the businesses share access, customer parking areas or other common areas. It is not required that the lots within a development complex be under common ownership if other factors which support the finding that a shopping center or grouping of 3 or more businesses are part of a common development are present. If the area being designated as a development complex for purposes of allowing a joint identification sign contains lots that are under

separate ownership, all the lot owners must consent to the designation.

3. In addition to a sign permit, an applicant requesting to designate an area as a development complex must submit information relating to the factors described in § 17.50.080T.2. The Director of Community Planning or their designee will review the information submitted and in addition to determining whether or not the proposed joint identification sign is in compliance with the requirements of the code pertaining to joint identification signs, will determine whether or not to designate the requested area as a development complex. Any person or group aggrieved by the decision of the Director of Community Planning or their designee to designate an area as a development complex may appeal such decision to the City Council. The time for appealing this determination shall be limited to 7 days. The Building Official cannot issue a sign permit until the time for appeal has expired.

4. Joint identification signs will be treated as on-premises signs for all businesses located within the development complex whether or not they are located on the same legally described parcel as the sign. Joint identification signs can only identify those businesses or activities that are located within the development complex.

5. Each development complex shall be permitted 1 monument sign per public street frontage. For purposes of this section, a **MONUMENT SIGN** is defined as a freestanding sign not erected on 1 or more poles or other similar supports but erected to rest on the ground or on a base designed as an architectural unit with the sign. Individual on-premises ground signs will not be allowed for business located within the development complex. There shall be a minimum distance of 100 feet between joint identification signs. Each business will be allowed to have on-premises wall signs as allowed under this code.

6. Joint identification signs will be allowed to have a maximum area of 100 square feet or 1 square foot of sign for each 2 linear feet of street frontage of the development complex, whichever is greater. Provided that the total area of all signs on each frontage shall not exceed 200 square feet.

7. The maximum height of a joint identification sign shall be 15 feet.

8. Joint identification signs must be located on property that has been designated as part of the development complex. No joint identification sign can be located closer than 10 feet from any external boundary of the development complex.

U. *Non-conforming signs.* Any sign which was legal at the time it was constructed is a legal non-conforming sign. A legal non-conforming sign which is moved, relocated, structurally altered, or damaged by more than 50% of the signs value at the time the damage occurs, must be brought in to full compliance with all requirements of the Rapid City Municipal Code. Any legal non-conforming sign which is structurally altered and is not brought into compliance with all requirements of the Rapid City Municipal Code shall be deemed unlawful by the Building Official and removed in accordance with § 17.50.080C. of this Rapid City Municipal Code or any other applicable regulations related to unlawful signs.

V. *Severability.* If any section, sentence, clause, phrase or other portion of this section 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 section.

W. *Variations.* Applications for variations for sign height, sign area, sign setback, sign spacing, and total number of signs within this section, §§ 17.50.090 and 17.50.100 are subject to the review and approval process requirements outlined in §§ 17.50.050, 17.50.060, 17.50.070, and 17.54.020 as applicable.

X. *Replacement of condemned signs.* Notwithstanding any other provision of this section, any off-premise sign which is removed under the eminent domain authority of any governmental unit as a part of a publicly funded construction project may be replaced in accordance with the following requirements:

1. Prior to removal, the governmental unit proposing to relocate the off-premise sign shall make an application to the Building Official for permission to relocate an off-premise sign. The governmental unit applying for permission to relocate an off-premise sign shall provide on its application its certification that the sign is being removed pursuant to its eminent domain authority for the purpose of undertaking the construction of a publicly funded construction project, the location, size, and a description of the existing off-premise sign, and all information required for applications for new off-premise signs for the proposed location of the new sign. The governmental unit is not required to supply off-premise sign credits to make the application under this section.

2. Upon receipt of the application from a governmental unit, the Building Official shall review the application for completeness. The Building Official shall have the request placed upon the next available Public Works agenda.

3. Prior to the next available Public Works agenda, the Building Official shall make an on-site inspection of the off-premise sign. If the Building Official determines that the off-premise sign that is the subject of the application for relocation is an illegal sign, he or she shall proceed in accordance with the provisions of this section regarding the removal of illegal signs. No illegal sign may be relocated. If the Building Official determines that the sign is not an illegal sign, he or she shall report that fact to the Public Works Committee.

4. Upon receipt of the application for relocation of the off-premise sign and the report of the Building Official, the Public Works Committee shall recommend to the Council whether to authorize the relocation of the off-premise sign.

5. Upon receipt of the recommendation of the Public Works Committee, the Council may authorize the removal and relocation of the off-premise sign. The decision of the Council is final.

6. Any off-premise sign relocated under the authority of this section shall be constructed in such a manner as to comply with the requirements of this section pertaining to the size, height, and all structural requirements of this section and all other provisions of the Rapid City Municipal Code regulating the construction of structures.

7. Upon the approval of the application for relocation, the governmental unit or the owner of the relocated sign may apply for a conditional use permit as required by Title 17 of the Rapid City Municipal Code. No sign authorized to be relocated under the provisions of this section shall be constructed until all the requirements of Title 17 are met.

Y. *Substitution of noncommercial speech for commercial speech.* Notwithstanding any other provision of this section to the contrary, any lawfully erected off-premises or other sign displaying a commercial message may, at the option of the owner, display a noncommercial message. The noncommercial message may occupy the entire sign face or any portion thereof. The sign face may be changed from commercial to noncommercial messages, or from 1 noncommercial message to another, as frequently as desired by the owner of the sign, in compliance with the rest of this section, provided that the sign is not a prohibited sign or sign-type and provided that the size, height, setback, dimensional and other criteria contained in this section are satisfied.

Z. *Penalty.* In addition to any administrative actions or remedies authorized by this code, a violation of this section shall be subject to the city's general penalty provision, § 1.12.010 of this

code.

(Ord. 5982, 2014; Ord. 5883 (part), 2013)



CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

Office of the City Attorney

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June 4, 2015

Mike Sabers
Clayborne, Loos and Sabers
P.O. Box 9129
Rapid City, SD 57709

Brendan Casey
Epic Outdoor Advertising
720 St. Anne Street
Rapid City, SD 57701

Dear Mr. Sabers and Mr. Casey:

I write concerning two matters concerning digital billboards belonging to Epic Outdoor Advertising.

First, the public and City staff have observed multiple instances of full motion video on your signs. The City of Rapid City has received two citizen complaints that the billboard belonging to Epic Outdoor Advertising located on West Main Street displayed full motion video on an advertisement for Budweiser. This activity was observed during the evening of May 22, 2015 and the morning of May 23, 2015. Full motion advertisements for Budweiser beer, Monster Energy Drink, Michelob Beer, and Rush Hockey were observed by a Code Enforcement officer on the same sign on April 21, 2015.

Section 17.50.080.D of the Rapid City Municipal Code prohibits "[o]ff-premises or public purpose signs incorporating animation, graphics, pictures or video which is in motion." Your use of full motion video on the Main Street sign violates the City's municipal code. Please immediately cease using full motion video on your sign on Main Street and on any other sign located within the jurisdiction of the City. Failure to comply may initiate legal action, abatement of the property, and/or removal of the sign. Costs to resolve these items will be assessed to you, as permitted under the law.

The second matter relates to the status of four Epic signs as "public purpose signs." At its July 18, 2005 meeting, the City Council considered an appeal of the Sign Court Board of Appeals' decision related to Epic Outdoor Advertising. As the minutes from that meeting reflect (attached), twelve minutes of every hour for the four public purpose signs is to be for "public use" or "public service," and is to be at

EQUAL OPPORTUNITY EMPLOYER



EXHIBIT F

no cost to the civic and charitable organizations who utilize the public purpose signs. Ultimately, the Council voted to allow Epic four public purpose signs on these terms. Ten years has passed and, to my knowledge, the City has not requested, nor has Epic Outdoor Advertising provided, any information related to the use of these signs for public purposes. Today I am requesting such information to enable the City to confirm that these public purpose signs are being used in compliance with the Council's action taken in 2005.

Accordingly, please select any continuous 30-day time period between March 1, 2015 and the present and provide the following information for each public purpose billboard:


- (1) A description of the public purpose announcements/advertisements that aired during that continuous 30-day time period;
- (2) The total amount of minutes/seconds for each hour where the sign displayed a public purpose announcement/advertisement; and
- (3) The amount, if any, which the civic or charitable organization paid for the announcement/advertisement.

If Epic has records which contain this information and which you would rather provide, instead of taking additional the time and energy to create new documents, that would be acceptable, as long as you provide information to assist City staff in interpreting the information. The City is not seeking any proprietary information related to Epic's business operations; instead, I am seeking information to verify the use of the signs as public purpose signs within the parameters of Council's authorization.

I would request that the City receive this information by July 3, 2015. If you need additional time to compile the same, please give me a call to discuss.

Thank you for your attention to these matters. If you have any questions, please feel free to give me a call at any time. Best regards.

Sincerely,


Jessica Rogers
Assistant City Attorney



CITY OF RAPID CITY

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June 22, 2015

Mike Sabers
Clayborne, Loos and Sabers
P.O. Box 9129
Rapid City, SD 57709

Brendan Casey
Epic Outdoor Advertising
720 St. Anne Street
Rapid City, SD 57701

Dear Mr. Sabers and Mr. Casey:

I write concerning the continued Rapid City Municipal Code violations occurring on digital billboards belonging to Epic Outdoor Advertising.

The City of Rapid City continues to receive complaints about multiple instances of full motion video on your signs in violation of Section 17.50.080 D.1 of the Rapid City Municipal Code. We have recently received two citizen complaints that the billboard belonging to Epic Outdoor Advertising located on West Main Street displayed full motion video on an advertisement for Budweiser. This activity was observed during the evening of June 18, 2015 and the morning of June 20, 2015.

Beginning on June 29, 2015, I will begin issuing criminal citations for any sign code violations, including full motion videos, observed by City staff. As a reminder, each violation is a Class 2 misdemeanor punishable by up to 30 days in jail and a \$500 fine.

Thank you for your attention to this matter. If you have any questions, please feel free to contact me.

Sincerely,

Jessica Rogers
Assistant City Attorney

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