

**City of Rapid City, South Dakota**

**Growth Management  
Processes Assessment**

*Final Report*



**Prepared by**



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**Item #6**



City of Rapid City, South Dakota

## **Growth Management Processes Assessment**

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## Executive Summary

### Findings

- Rapid City's existing growth management processes have many positive aspects. The City effectively operates building permitting and inspections services and maintains strong county and interdepartmental relations for coordination of growth management processes.
- The City's support for the one stop permitting system has created permitting counters that are easily accessible to the public with customer-friendly and helpful staff.
- Excellent office facilities for the Growth Management Department lie within good proximity to related functions in Public Works and GIS. Presentation technology at public meetings effectively communicates meeting proceedings to the Planning Commission (or other convening body) and the public, with thorough and clear staff presentations.
- The Growth Management Director and supporting staff have extensive knowledge of regulatory requirements and procedures affecting land development and building.
- The public Web site for the Growth Management Department and related information and services, including the Rapid Map GIS service, is very well organized and maintained. This Web site reflects the City's priority for public information dissemination and providing multiple opportunities for public comment and participation.
- GIS services with well-qualified staff are available to support Growth Management Department functions.
- Growth management processes can be improved by addressing a wide range of issues. Foremost among these issues is a poorly-organized Growth Management Department with no clear subdivision of functions and responsibilities. The current organization results in disjointed and inefficient operations and functions. "Growth Management" in the department name conveys control, rather than community services. Staff, although knowledgeable of local processes and requirements, lack formal professional qualifications. Professionally educated and certified planning staff can add new perspectives and improvements to methods and operations. Staff is inordinately large and has burdened itself with a quagmire of development review

requirements. Splitting engineering functions among two departments creates additional conflicts and inefficiencies.

- The City has no process in place to modernize land use and development regulations, resulting in dated, dysfunctional, and inadequate zoning and subdivision controls. Long range planning lacks the comprehensiveness, vision, and creativity required to effectively plan and respond to the City's current issues and future demands. The Planning Commission, rather than looking forward to guide the City's growth is bogged down with lengthy agenda items and focused on permitting minutiae.
- The Planning Commission has a multitude of subcommittees, frequent meetings, extremely long agendas, and an exorbitant number of continuations of items for the next meeting. The Growth Management staff members spend excessive time on preparations for these overloaded Planning Commission meetings.
- The Development Review Team does little to facilitate or streamline development review; rather it maintains a complex web of Planning Commission and staff approvals. Many of the ordinance requirements, especially for planned development and conditional uses can result in onerous and sometimes arbitrary development controls. Even approval of the City's public facilities approval requests require overly-burdensome and detailed review by Growth Management Department staff and the Planning Commission, although this State requirement will soon be repealed.
- Automation of permitting processes lags behind available technology. The City's GIS capabilities have not been fully utilized for planning and development review. No GIS database of zoning map and records exists.
- The Zoning Board of Adjustment does not use its authority to regulate uses that may be listed in each district as special exception uses requiring Board approval, as many cities do.
- Development review processes lend themselves to inconsistencies with overly cumbersome and detailed development application requirements, review processes, and approval stipulations. Applicants lack clear guidance of City requirements and procedures for development approval.
- Two permit counters can be combined to create a true one-stop shop. Permit counter checks of application completeness can expedite review processes.
- The turnover of planners is high. When positions are vacated, they are often left unfilled for extended periods of time.



## Recommendations

- The City should reorganize the Growth Management Department into a new Department of Planning and Development Services with three major divisions, each managed by a division head which reports directly to the Department Director without the need for an Assistant Director: Planning, Development Review Coordination, and Building Services with reduced number of staff. Merge all engineering functions from the Growth Management Department into the Public Works Department.
- The new Development Review Coordination Division, established by a permit review process ordinance, would provide administrative services to facilitate development review at a single permit counter, coordinate reviews and approvals, maintain very limited review authority within the Division, basically limited to completeness reviews, and oversee a newly organized Development Review Coordination Team.
- The City should publish and maintain a *Rapid City Development Review Handbook* that sets forth clear, simple, and consistent guidance to applicants for all development review procedures.
- The Planning Commission must reduce its load from an average of over 80 items per month to less than 10 per month, which is on par with that of comparable cities. This would, in turn, reduce staff loads and streamline processes. The lengthy Planning Commission agendas, in turn, have a spillover impact to the Council meetings and add unnecessary length to those meetings as well. To accomplish this objective, major changes need to be undertaken, including the following steps:
  - ✓ First, repeal the Future Land Use Plan as a basis for development review decisions but maintain these studies for land use guidance and forecasting purposes only. These plans have evolved into super zoning maps, rather than plan guidance, with overly-detailed and meaningless land use classifications.
  - ✓ Modify the Planned Development Regulations to be used as methods to add flexibility and encourage creativity in subdivision and site design for large land parcels, rather than adding additional layers of approval and control.
  - ✓ Establish administrative approval authority by a designated staff person for all subdivision plat approvals, as authorized by Section 11-3-6 of the South Dakota Code of Laws.
  - ✓ Modify the Conditional Use Permit authority of the zoning ordinance by granting special exception use approvals to the Zoning Board of Adjustment, allowing some of the conditional uses as permitted uses, subject to supplemental use regulations, allowing the uses as permitted uses, or prohibiting the uses all

together. These conditional use listings are unusually long and need to be reduced.

- The City should initiate a meaningful and visionary process of comprehensive planning using the existing Future Land Use Plans as a basis for a reinvigorated plan. The new plan should reflect community values and long term goals for future growth and development, along with infrastructure and facilities required to accommodate future demands. The current plan primarily serves as a means of land use control. Continue the new comprehensive planning process with a process to modernize all land use and development controls into a comprehensive Unified Development Ordinance designed to implement the plan goals and objectives.
- City planning staff should make full use of GIS capabilities to support planning, development review, and building inspections. Of primary importance is a GIS database of the City's zoning records and a digital zoning map.
- The City should fully automate the permitting and development review processes by installing and maintaining a comprehensive permit management software program that is directly linked and integrated into the City's GIS database. As the system develops over time, an "E-Permits" option could allow public access to file development review and building permit applications on line, monitor the progress of application review and approval, and communicate directly with City staff to resolve any application issues.
- The Development Review Team should be reorganized into a Development Review Coordination Team with a mission to coordinate and streamline development application reviews and approvals.
- The City should actively recruit and retain professionally qualified planners as vacancies occur and maintain nationally competitive salaries.

# Growth Management Processes Assessment

## Section 1. Background and Scope of Report.

In 1995, Rapid City's mayor at the time, Mayor Ed McLaughlin, appointed a Blue Ribbon panel to respond to concerns from the building and development communities about inconsistencies and inefficiencies in the City's development review and permitting processes. The Panel performed assessments of the Planning, Building, and Engineering Departments and made recommendations to improve the operations of processes administered by those departments. Panel recommendations included a restructuring of City departments and operations, including the establishment of a one-stop permitting system. It wasn't until about eight years later in 2003, however, that the Department of Growth Management was created by ordinance "to coordinate all community planning and development activities, building permitting and associated inspections, and geographic information systems for the city." Restructuring continued with Mayor Jim Shaw's drive to establish a one stop permitting shop. In doing so, many of the engineering staff were moved from the Public Works Department and assigned to the newly-formed Development Services Center of the Growth Management Department. Planning, engineering, inspections, and administrative staff worked together within this division as part of the one-stop permitting system.

By 2010, dissatisfaction among applicants, builders, developers, and others had worsened, and in many respects, the present day situation mirrors similar concerns addressed by the 1995 Blue Ribbon panel. Mayor Alan Hanks, with Council support, has taken steps to reexamine the growth management processes (planning, building, and development review). The City has been looking for ways to reduce or eliminate inconsistencies and inefficiencies from the complex and difficult web of permits, forms, reviews, approvals amalgamated over the years. Subsequently, Lehe Planning, LLC, was retained in early 2010 to assess these growth management processes and offer recommendations to improve their effectiveness, efficiency, and responsiveness.

To complete its charge by the Mayor, the Lehe Planning consulting team performed detailed profiles of all existing processes to determine the strengths, weaknesses, and opportunities for improvements, which are presented in this report. This report examines the following existing processes and procedures and offers recommendations for each: (1) current planning and development review, (2) permitting, (3) long range planning, (4) plan implementation, (5) committees and boards, and (6) development policies.

## **Section 2. Evaluation of Growth Management Processes**

This evaluation provides a framework for recommended improvements of select growth management processes. An assessment of the most significant processes identifies both positive aspects and shortcomings. For the purpose of this assessment, the consulting team conducted a series of telephone interviews with key City staff and communicated at a distance by email. The City's Web site provided extensive background information, including agendas, forms, written procedures, plans, policies, and ordinances. The team followed up with two week-long, on-site assessments. The first trip to Rapid City provided close up observations of staff involved in the administration of the processes. A consulting team member conducted many individual interviews with key staff and, in particular, observed the dynamics of the permit counter and review processes in action. A second on-site assessment examined the operations of the Planning Commission, the Development Review Team, and the interdependence of the Growth Management Department with the City Engineer's office and GIS services. The consultant interviewed the Mayor and select City staff, as well as three representative applicants from the building, development, and engineering communities. These assessments revealed both strengths and weaknesses of current growth management processes.

### **Positive aspects and opportunities**

The Rapid City growth management processes have many positive attributes, as described here:

1. The operations of the building permitting and inspections services run well with no observed complaints. Understandably, these functions operate within the confines of established building and technical codes in which operations have been standardized among communities nationwide. Other noticeable strengths include the interagency coordination with Pennington County and the solid interdepartmental relations by Department of Growth Management with other City departments. Excellent office facilities for the Growth Management Department facilitate these interdepartmental relationships with good proximity to related functions in Public Works and GIS.
2. City administrators and the community strongly support an effective one stop permitting system. Although the permit counters are divided between development review and building permits, the opposing counters offer easy public access by applicants. Permit counter staff appear customer friendly, knowledgeable, and helpful.
3. Public meetings, such as those conducted by the Planning Commission in the Council Chambers, have state of the art presentation technology available for

effectively communicating meeting proceedings to the Planning Commission (or other convening body) and the public. Staff presentations at Planning Commission meetings are well done, thorough and clear.

4. The Growth Management Director and supporting staff possess extensive knowledge of regulatory requirements and procedures, including State and Federal requirements affecting land development and building. Staff members appear dedicated and committed. GIS services with well-qualified staff provide technical mapping and data support for growth management functions.
5. Disseminating public information and providing multiple opportunities for public comment and participation are City priorities. An excellent Web presence by the City provides access to a wealth of information on the Growth Management Department and related information and services. Planning Commission agendas include active links to staff reports, all available through on-line access. GIS staff professionals do an excellent job with the publicly-accessible Rapid Map GIS service; it is very well organized and maintained.

### **Negative aspects and issues**

Finding solutions to the following negative aspects and issues confronting growth management process is the impetus of this report, as noted here:

1. A major concern found by the consultant team is the disjointed and inefficient organization of Growth Management Department functions. The current organizational structure loosely divides two principal departmental functions – Community Planning and Development Services – with all staff reporting to either the Director or Assistant Director (or both). The excessively wide span of control by these individuals adds to organizational inefficiencies and ineffectiveness in the administration of growth management processes. Organizational weaknesses are underscored by lack of professional staff with formal professional qualifications: recognized degrees in urban planning or certification by the American Institute of Certified Planners. Further, the size of the staff is relatively large. Compared to similar cities, Rapid City has an inordinately large staff for planning and development review. (Refer to Appendix A for comparisons). Another organizational weakness can be found by the very obvious conflict that has been created by splitting engineering functions among two departments – Growth Management and Public Works. Finally, the organization's name, "Growth Management," conveys control, rather than the services offered by this department to the community.

2. The City has no process in place to modernize land use and development regulations, resulting in dated, dysfunctional, and inadequate zoning and subdivision controls. Development review processes can suffer by dated and inadequate zoning, subdivision, and land development controls. In particular, improper use of planned development regulations and conditional use permitting can add onerous and arbitrary development controls to development applications. The consultants found evidence of inconsistencies and misguided regulatory processes lacking clear purposes. Inconsistencies may exist among development review decisions. Complaints have been made among applicants of overlay cumbersome and detailed development application requirements, review processes, and approval stipulations. The City does not offer applicants clear guidance to applicants of requirements and procedures for development approval.
3. The City's current comprehensive plan is deficient. It lacks comprehensiveness, vision, and focus on long range planning. It does not demonstrate innovation or creativity of methods and applications to effectively plan the City's current issues and future demands. It is overly concerned with future land use details, which are impossible to predict, rather than providing meaningful guidance for zoning, development, and other land use decisions. Elements of the comprehensive plan for drainage facilities, utilities, roads, annexations, etc. have been developed independently of future land use plans, which are ongoing efforts that have never been completed. A unified comprehensive plan that coordinates all elements of land use, community facilities, infrastructure, economic development, historic preservation, and other aspects of community growth and development has never been created. Further, no planning cycle has ever been established to ensure the relevance of the comprehensive plan.
4. The Planning Commission, rather than looking forward to guide the City's growth is bogged down with lengthy agenda items and focused on permitting minutiae. The City has created a system that necessarily requires a lengthy number of Planning Commission agenda items, meetings, and subcommittees. The complexity of reviews results in an exorbitant number of continuations of items for the next meeting. Excessive staff time needs to be spent on preparations for these lengthy Planning Commission meetings. Consequently, the Development Review Team focuses on Planning Commission agenda items, rather than ironing out development review issues with applicants. This committee does not confer with applicants and does little to facilitate or streamline development review. Instead, it maintains a complex web of Planning Commission and staff approvals.
5. The City has begun to automate permitting process and has done much to develop a comprehensive GIS framework for further automation; however

automation is incomplete. Of primary concern is the lack of a digital zoning map and GIS data base of zoning records.

6. Many communities grant authority to the Zoning Board of Adjustment to regulate special exception uses, but this has not been done in Rapid City. Instead, the City relies on “conditional uses” that require Planning Commission and Council approvals. A more streamlined process could shift the responsibility for many of these use approvals to the Board of Adjustment, where a new category of uses, termed “special exception uses,” would be added to the district use listings.
7. The Growth Management Department maintains two permit counters located directly opposite from one another. One is for “development review,” and the other is for building permits. If the City supports a true one-stop permitting process, then these functions would need to be combined into a single counter that coordinates all development applications. Counter staff that clarifies requirements to applicants and checks completeness before accepting applications can do much to improve the efficiency of the processes.
8. The Growth Management Department has a high turnover rate among planners. When positions are vacated, they are often left unfilled for extended periods of time.

### **Section 3. Recommendations**

This section presents recommendations to respond to the issues and opportunities reported in the previous section of this report. These recommendations focus on measures to improve the effectiveness, efficiency, and responsiveness of Growth Management processes. These recommendations are in keeping with the City’s overall mission “to ensure public trust, provide an open forum, foster a climate of free enterprise for all people, and enhance quality of life.”

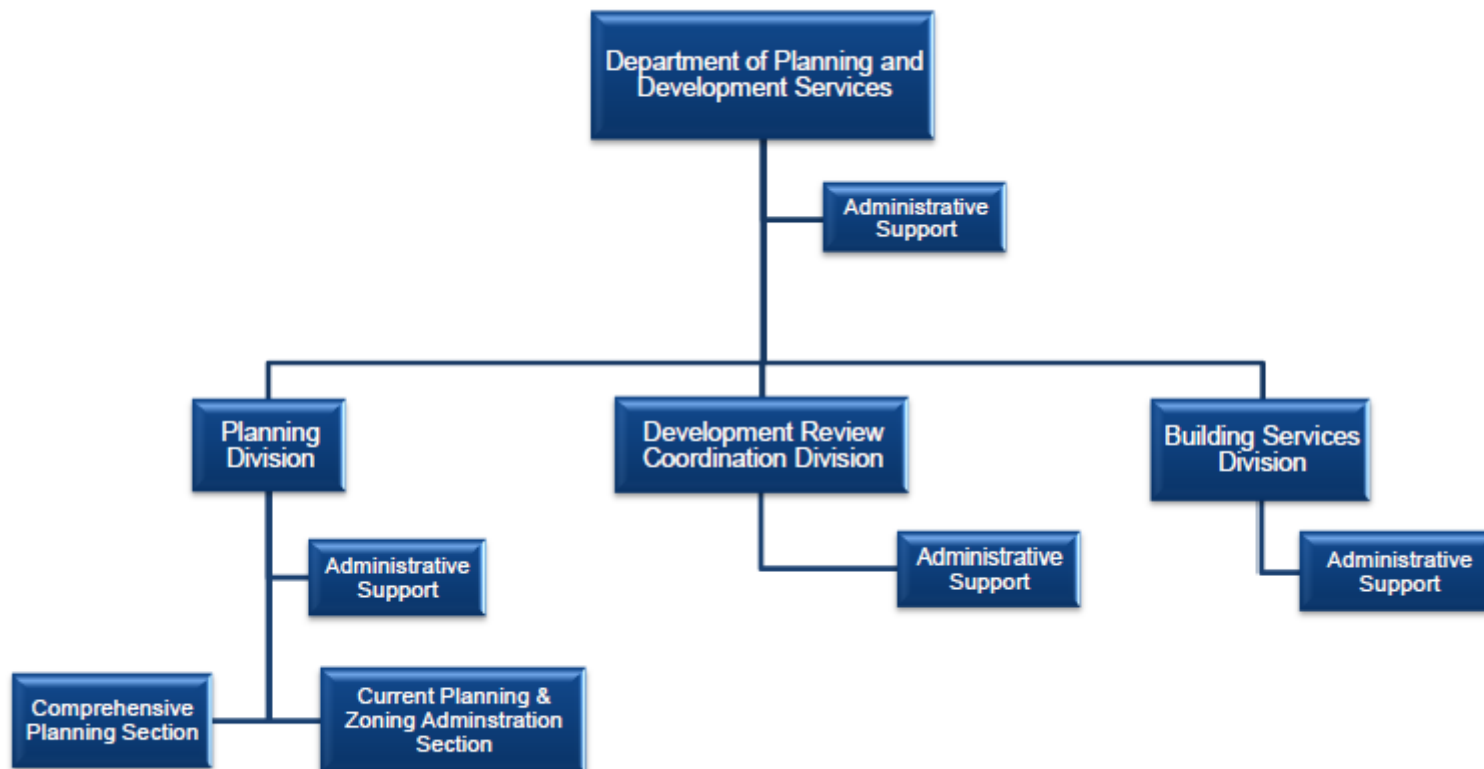
1. Reorganize the Growth Management Department into a new Department of Planning and Development Services (or other preferred name). The name change would give a strong public statement of the newly organized growth management processes into a more efficient, effective, and responsive organization. The size of the staff should be readjusted to reflect the better efficiency of this revised organizational structure.
  - a. The new department should have three major divisions, each managed by a division head which reports directly to the Department Director without the need for an Assistant Director: Planning, Development Review Coordination, and Building Services.

- b. The Planning Division would be further divided into two sections for Current Planning and Zoning Administration and Comprehensive Planning. All planners performing development review functions would be housed in this section.
  - c. The Development Review Coordination Division would provide administrative services to facilitate development review. It would coordinate development review and building permitting but would not be tasked with performing the actual reviews and permit approvals. A Development Review Coordinator would be supported by clerical staff to ensure completeness of applications and usher them through the review and approval processes. Division would also serve as an intermediary between the applicant and the City staff and review and approval boards, such as the Planning Commission, Zoning Board of Adjustment, or Council, assuring the expediency of review and approval processes. The two counters would be merged into a single counter that serves development review and building permit applications.
  - d. The Building Services Division would continue to function as it has, except with the full management authority of the Division vested in the Building Official. The Building Official will assign functions within the Division for plans examination, inspections, etc.
2. Adopt an ordinance that reorganizes the one-stop permitting and permit review process. This ordinance should be drafted in conjunction with the reorganization of the Growth Management Department, which would create a new Development Review Coordination Division. The American Planning Association publishes guidance, including a model ordinance, for creating this process. (See attached APA report on its recommended "Model Unified Development Permit Review Process Ordinance" in Appendix D).
  3. Merge all engineering functions from the Growth Management Department into the Public Works Department. This merger would establish a single Engineering organization within the City. The efficiency of this merger should result in additional cost savings with at least one less engineer. All engineering project managers, engineering technicians/inspectors, as well as the stormwater and air quality specialists would function better within the Engineering Division of the Public Works Department. Additional benefits



**Figure 1 –  
SAMPLE REORGANIZATION**

City of Rapid City  
Department of Planning and  
Development Services



would be realized by the effectiveness of engineering reviews to consider the extensive master plans, specifications, and standards developed and administered by the Public Works Department.

4. Publish a Development Review Handbook. This handbook would set forth clear, simple, and consistent guidance to applicants for all development review procedures.
5. Reduce the load on the Planning Commission. Over the first five months of 2010, the Planning Commission agendas included over 400 items or over 80 items per month. Planning Commission agendas of comparable cities within the region have on average less than 10 items per month (see Appendix A for comparisons). Moreover, the Rapid City Planning Commission meets twice a month compared to a typical monthly meeting schedule among comparable cities. Preparations for these lengthy meeting agendas are a major effort among Growth Management Department staff. To reduce the load, the following processes would need to be modified, as described:
  - a. Repeal the Future Land Use Plans. The future land use plans may be used as a land use forecasting tool required for utilities planning, hydrology, traffic forecasting, and other purposes, but has no value as a land use planning guidance tool for zoning actions. Future land use designations are overly detailed (with up to 40 or more classifications) and bear little relation to actual future zoning demands. The land use plan should instead be a guide to zoning actions and should be developed as one of many guidance tools developed in a newly-established comprehensive planning process, as described below in paragraph 6. This repeal would considerably reduce the “Plan Amendment” items on the Planning Commission agendas.
  - b. Modify the Planned Development Regulations. Planned development provisions in a zoning ordinance should be designed to add flexibility and encourage creativity in subdivision and site design for large land parcels. The existing regulations serve only to add additional and maybe arbitrary City land use controls without clear purposes. For example, in a recent Planning Commission meeting, a day care center proposed to occupy a former funeral home building on a single lot went through Planned Residential Development (PRD) approval. Obviously, this is not a true “Planned Residential Development.” Providing zoning provisions for true planned developments would further reduce the Planning Commission load.
  - c. Establish administrative approval authority for subdivision plats. South Dakota law in Section 11-3-6 permits the City Council to “by

resolution designate an administrative official of the municipality to approve plats in lieu of approval by the governing body.” Although Rapid City has given the “Planning Department” authority to approve final plats (Section 16.08.035 of the Rapid City Municipal Code), the extent of approvals could be expanded to include resurvey of lot boundaries and other minor subdivisions. Even approval authority of preliminary plats could be delegated to an administrative official. The Director of the reorganized Growth Management Department (Department of Planning and Development Services), the Public Works Director, or the City Engineer would all be reasonable appointments to assume this approval authority. This delegation of subdivision approval authority would further reduce the size of the Planning Commission agenda.

- d. Examine and modify the Conditional Use Permit authority of the zoning ordinance. Many of these conditional uses could be permitted by right with conditions presented in the text of the zoning ordinance. “Supplemental Use Regulations” could be added to assure compatibility in design and operations of selected uses. Other conditional uses might be reassigned to the Zoning Board of Adjustment as Special Exception Uses. These uses would be listed in each district as “Special Exception Uses” requiring Board approval. The few remaining uses, if any, would be subject to Planning Commission approval.
6. Initiate a meaningful and visionary process of comprehensive planning. A new and reinvigorated process of comprehensive planning would begin with a visionary plan that reflects community values and long term goals for future growth and development, along with infrastructure and facilities required to accommodate future demands. The existing Future Land Use Plans would serve as a basis for developing the City’s comprehensive plans. Examples from other communities, such as Sioux Falls, Lincoln, NE, Manhattan, KS, St. Cloud, MN, Casper, WY, Cheyenne, WY, and select comparable cities should be reviewed to appreciate scope and depth of a meaningful comprehensive plan. Fortunately, South Dakota law does not dictate the methods and content of a comprehensive plan; this allows broad flexibility to fit the comprehensive plan to Rapid City’s unique growth and development needs.
7. Modernize all land use and development controls into a Comprehensive Unified Development Code. Communities nationwide and throughout the region have been examining their current ordinances and creating more modern and responsive regulations that reflect changing land development practices and land use conventions. Modernization should be tightly integrated into the comprehensive planning process and become a logical

outgrowth of the City comprehensive plan. The entire process for creating the plan and ordinance should begin with the quick fixes identified in item 5 above and be scheduled for completion over a three year period. Zoning and land development regulations should be coordinated as plan implementation tools within the comprehensive planning process and be examined from time to time for effectiveness. A regular process of examination could maintain modern and effective land use controls that are clearly designed to implement community goals and objectives. A major update should occur every five years, with an annual interim review of the plan and implementation measures. Many communities have adopted a “Uniform Development Code,” which consolidates all zoning, subdivision, flood plain, storm water, air quality, building, and other land development controls into a single, coordinated volume. Such a code should be developed as the final implementation phase of a continuous comprehensive planning process. Likewise, the process must also examine and update administrative rules and procedures needed for the effective administration and enforcement of the Unified Development Code.

8. Make full use of the City’s GIS capabilities to support planning, development review, and building inspection services. GIS is a valuable tool to support a host of City functions and operations. It is especially useful to the mapping and analysis requirements for developing a comprehensive plan and can also be used to facilitate record keeping and monitoring of development review and permitting processes, as well. Of critical importance is a digital zoning map and GIS database of the City’s records to replace the large paper map fastened to the wall in the Growth Management Department offices.
9. Automate the permitting and development review processes. Some progress has been made in creating digital records and management systems for permitting purposes. These efforts need to be supplemented by installing and maintaining a comprehensive permit management software program that is directly linked and integrated into the City’s GIS database. As the system develops over time, an “E-Permits” option could allow public access to file development review and building permit applications on line, monitor the progress of application review and approval, and communicate directly with City review and coordination staff to resolve any application issues. Automation can help processes progress without delay and keep the applicant (and interested community) informed.
10. Reorganize the Development Review Team into a Development Review Coordination Team. The purpose of this team should be to facilitate the development review processes for major developments and coordinate review among City departments, the County and other agencies. It should not be solely a preparation ground for the next Planning Commission cycle of

agenda items. The nickname “Dirt” for the DRT acronym should be dropped in favor of a nickname that conveys coordination and facilitation (such as “Coordination Team,” “the Facilitators,” or simply the “Team”). The reorganized Development Review Coordination Team should be chaired by the head of the newly-established Development Review Coordination Division. The Team should conduct pre-application and other periodic conferences with applicants, as necessary to communicate application requirements and determinations throughout the review processes.

11. Recruit professionally- qualified planners as vacancies occur. The preferred qualifications for a professional planner should be a graduate planning degree from a recognized planning program. For higher planning positions, certification by the American Institute of Certified Planners (AICP designation) would be preferred. Although South Dakota does not offer degree programs in urban planning, there are schools within the region where relationships could be established to offer internships and assist with City recruiting efforts. (Refer to Appendix B for a list of planning degree programs).
12. Maintain competitive salaries for professional planning staff. Competitive salaries should be maintained to recruit well qualified planners. At the top end of the City’s current salary scale is the Director. The upper limit of the Director’s salary at \$128,731.00 places it among the top 8% of all planners nationwide and assures the City that it can attract among the nation’s top talents should a vacancy occur. The Assistant Director range of \$69,430.00 to \$105,643.00 is likewise very competitive, with only 19% of all planners nationwide earning \$100,000 or more per year. The upper limit of the Planner series is \$71,177, near the \$70,000 average of all planners nationwide. The bottom salary, however, of \$36,545 is low with only 4% of all planners earning less than \$40K per year. The Planning Coordinator limit of \$78,561 is above the \$70,000 average with about 36% all planners nationwide earning over \$80,000. These salaries should be revised periodically to maintain a competitive edge in recruiting qualified planners. (See Appendix C for the results of the 2008 APA salary survey. Although national salary survey data is given here, this data is intended to be used for general comparison purposes only; it is not intended for use as a basis for salary adjustments).



**Appendix A –**

**Comparisons of Growth Management Staffing,  
Organization, and Functions to the City of Rapid City**

Prepared by  
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## Selected Cities for Comparison

Cities were selected based on their similarities to the City of Rapid City according to regional location, population between 50,000 and 75,000, 2000-2008 growth rate >5%, and location outside of a major metropolitan area. Sioux Falls, although much larger than Rapid City, was added based on its location in South Dakota.

**Table A-1. Population Growth of Select Comparable Cities (2000 through 2008)**

City	State	2000 Pop.	2008 Pop.	% Growth
<b>Rapid City</b>	South Dakota	59,607	65,491	10%
<b>Sioux Falls</b>	South Dakota	123,975	154,997	25%
<b>Ames</b>	Iowa	50,731	56,510	11%
<b>Iowa City</b>	Iowa	62,220	67,831	9%
<b>Manhattan</b>	Kansas	44,831	52,284	17%
<b>St. Cloud</b>	Minnesota	59,107	66,948	13%
<b>Missoula</b>	Montana	57,053	68,202	20%
<b>Bismarck</b>	North Dakota	55,532	60,389	9%
<b>Casper</b>	Wyoming	49,644	54,047	9%
<b>Cheyenne</b>	Wyoming	53,011	56,915	7%

Source: U.S. Census Bureau, American Fact Finder, 2000 Population and 2008 Population Estimates

**Table A-2. Comparisons of Planning Commission (PC) Activity**

City	Items on PC Agenda*	Monthly PC Meetings	Estimated Items per month**
<b>Rapid City</b>	41	2	81
<b>Sioux Falls</b>	13	1	13
<b>Ames</b>	2	2	4
<b>Iowa City</b>	7	2	14
<b>Manhattan</b>	4	2	8
<b>St. Cloud</b>	4	1	4
<b>Missoula</b>	1	2	2
<b>Bismarck</b>	5	1	5
<b>Casper</b>	8	1	8
<b>Cheyenne</b>	4	1	4

\*Items on Planning Commission (PC) agenda for Rapid City based on the average number of items between January and May of 2010 (406 total items). Number of items for all other cities is based on the last meeting agenda available on-line. Agenda items include comparable regular items, such as minutes, staff reports, etc. but do not include items such as call to open meeting and adjourn.

\*\*Estimate of PC Agenda items per month based on the reported number of items on PC agenda times the number of monthly PC meetings. This number may vary from month to month.

**Table A-3. Comparisons of Equivalent Staffing**

City	Planning Department/ Division Directors	Professional/ Technical Staff	Building Inspections Director/ Staff	Administrative Support/Clerical Staff	Total Equivalent Staff*
Rapid City	2	17	9	7	35
<b>**Average</b>	3	6	9	3	21
Sioux Falls	5	8	6	3	22
Ames	3	3	9	2	17
Iowa City	3	7	10	3	23
Manhattan	2	4	10	3	19
St. Cloud	-	-	-	-	-
Missoula	4	6	-	-	-
Bismarck	2	3	-	-	-
Casper	1	3	7	3	14
Cheyenne	5	12	9	2	28

\*None of the surveyed cities include engineering services within the equivalent Growth Management/Planning Department. Rapid City engineering services staff total 9 – 3 engineers, 2 engineering inspectors, 2 specialists, and 1 technician. The equivalent Rapid City staff without engineering services totals 26, compared to an average of 21 for all cities surveyed.

\*\*Shows average staffing of selected cities for readily available staffing information only, not including Rapid City.

## Rapid City, SD

<http://www.rcgov.org/>

### Growth Management Department

- The Department handles a diverse range of activities, generally described as long range land use and MPO transportation planning, current planning and zoning administration, development review, building inspections services, and permitting. Provides staff support to a number of boards and commissions.
- No formal organization into divisions. The Director primarily oversees planning services, and the Assistant Director manages building services, engineering review and inspections, and other functions.
- Staff of 35 – 1 Growth Management Director, 1 Assistant Growth Management Director, 1 Planning Manager, 1 Community Planning Coordinator, 1 Transportation Planning Coordinator, 5 Planners, 3 Engineering Project Managers, 3 Subdivision Inspectors, 1 Technician, 1 Stormwater Specialist, 1 Air Quality Specialist, 1 Building Official, 2 Plans Examiners, 6 Building Inspectors, 1 Administrative Assistant, 5 Administrative Secretaries, and 1 Clerk.

## City of Sioux Falls, SD

<http://www.siouxfalls.org/>

### Planning and Building Services Department

- Organized into three primary divisions, Planning, Zoning, and Building Services, with a total staff of 22 – 1 Director, 1 Assistant Director, 1 Senior Planner, 1 Zoning Enforcement Manager, 1 Chief Building Services Official, 3 Planners (Urban, Transportation, and Transit), 1 Graphic Design Specialist, 1 Zoning Enforcement Officer, 1 Code Enforcement Officer, 2 Inspection Field Coordinators, 1 Plans Examiner, 5 Inspectors, 3 Administrative Personnel (Administrative Assistant, Technical Clerk, and Building Services Aide). Transit Manager employed by contract.
- The Planning Division provides direction for the physical development and quality of life within the city through implementation of transit, transportation, and long-range plans, downtown development, historic preservation, and neighborhood conservation activities, and coordination of public improvements and private development with the comprehensive plan, zoning, and subdivision ordinances.
- The Zoning Division provides implementation of standards for protection of property and assistance to the public in understanding and complying with zoning, floodplain, and subdivision ordinances which are intended to carry out the comprehensive plan, preserve property values, and promote harmonious land uses.
- The Building Services Division administers building codes and enforces building, zoning, and nuisance ordinances.

### Public Works Department

- The Engineering Division performs all engineering reviews.

## Ames, IA

<http://www.cityofames.org/>

### Planning and Housing Department

- Total staff of 7 (8 including Housing) - 1 Planning and Housing Department Director, 1 Principal Clerk, and 1 Secretary; Planning Division includes 4 Planners (including Division head); Housing and Community Development Division includes 1 Housing Coordinator.
- The Housing Division administers CDBG and housing assistance (Section 8) programs.
- The Planning Division is responsible for a wide variety of tasks, including, but not limited to:
  - Provide zoning information to the public.
  - Coordinate approval of site plans for development projects.

- Prepare staff reports to the Planning and Zoning Commission and City Council for re-zonings, annexations, subdivisions and planned developments.
- Analyze requests to the Zoning Board of Adjustment for variances from the zoning ordinance and flood plain ordinance, for exceptions and special uses.
- Conduct long-range planning studies, as directed by the City Council.

#### Inspections Division

- Total staff of 10 - 1 Building Official, 2 Inspection Supervisors, 6 Inspectors, 1 Plans Examiner.
- Administers Building and Technical Codes, Sign Code, and the Zoning Ordinance.

#### Public Works Department

- MPO Transportation Program administered by Public Works Department (no staff information available).
- Engineering Division staff performs engineering review services.

### **Iowa City, IA**

<http://www.icgov.org/>

The Planning and Community Development Department and the Johnson County Council of Governments (JCCOG) include: Community Development, Housing Rehabilitation, Economic Development, Urban Planning, Historic Preservation, Neighborhood Services, Public Art, JCCOG Transportation Planning and JCCOG Human Services Planning.

- The Urban Planning Division plans for future development and redevelopment. Staff members draft policies and plans for City Council approval and review all zoning, subdivision, and large-scale development proposals. The division advises the Planning and Zoning Commission, Board of Adjustment, Historic Preservation Commission, the Iowa City Council, and the general public on planning and land development issues.
- The Transportation Planning Division of the Council of Governments is responsible for the federally-mandated transportation planning process.
- The Building Inspection Division of the Department of Housing and Inspection Services is responsible for enforcement of all codes and ordinances regulating the protection of the public health, safety and general welfare as it relates to the built environment and maintenance of existing structures.
- Total staff of 18 within these three divisions – 1 Director, 1 Urban Planning Division Director, 7 planners (3 urban planners and 4 transportation planners), 1 Building Inspections Director, 7 building inspectors, and 2 development regulations specialists.

#### Public Works Department

- Engineering Division staff review subdivision plans, design public works improvement projects, perform survey work, and inspect the construction of public works projects and subdivision improvements.

## **Manhattan, KS**

<http://www.ci.manhattan.ks.us/>

### Community Development Department

- The Community Development Department is home to the Planning Division. Activities include long range and current planning, zoning administration, historic preservation and grant administration.
- Total staff of 10 - 1 Community Development Director, 1 Assistant Director for Planning, 2 Senior Planners, 2 Planners, 1 Regional Growth Coordinator, 1 Zoning Inspector, 1 Housing Inspector, and 1 Administrative Assistant.

### Code Services Section

- The Code Services section of the Fire Services Department administers City ordinances relating to health, safety, and protection of citizens and their property. Code Officers also review plans, issue building permits for new construction, additions, and alterations.
- Total staff of 9 - 1 Building Official, 1 Senior Code Officer, 4 Code Officers, 1 Plans Examiner, and 2 Secretaries.

### Engineering Division

- The Engineering Division is part of the Public Works Department, which is responsible for the construction and maintenance of the city's infrastructure.
- Total staff of 5 - 2 engineers, 1 stormwater officer, 1 GIS coordinator, and 1 secretary.

## **St. Cloud, MN**

<http://www.ci.stcloud.mn.us/Default.aspx>

### Planning Department

- The Planning Office administers the city's comprehensive planning programs:
  - Comprehensive Plan
  - Land Development Code
  - Neighborhood Services
  - Heritage Preservation
  - Capital Improvement Program
  - GIS
- Staff information not available.

### Building Safety Department

- The Building Safety Department administers these building codes and zoning laws through permits and inspections.

### Engineering Department

- The Engineering Department works closely on engineering related issues with other City Departments, including the review of new residential subdivisions and new commercial and industrial developments.

## **Missoula, MT**

<http://www.ci.missoula.mt.us/>

Office of Planning and Grants, Joint City-County Department

- Total staff of 10 – 1 Director, 2 Grants Administrators (Principal and Senior), 5 Planners (1 Principal and 4 Senior), 1 Financial Manager, and 1 Support Services Manager.
- The Current Planning Division is responsible for the administration and enforcement of City and County zoning, subdivision, floodplain, shoreline, and other land-use regulations.
- The Transportation Division administers the MPO transportation planning programs.
- The Grants Division administers grant programs and economic development and historic preservation activities.

Public Works Department

- The Building Inspections Division administers and enforces building codes. Staff information not available.
- The Engineering Division staff performs engineering review services.

## **Bismarck, ND**

<http://www.bismarck.org/>

Community Development Department

- The Community Development Department has two divisions – Planning and Building Inspections.
- The Planning Division is responsible for administering land use regulations for the City and portions of the County; coordinating the development application processes; administering HUD grant programs; administering downtown programs; providing staff support to the City Planning & Zoning Commission, the County Planning Commission, the Board of Adjustment and the Renaissance Zone Authority; and carrying out the MPO Transportation Planning programs.
- The Building Inspections Division administers and enforces the codes and ordinances, including building codes, zoning ordinance, and flood plain regulations.
- Total staff of 1 Director, 1 Planning Manager, 3 Planners, and 2 Office Assistants. Staff information not available for Building Inspections Division.

Engineering Department

- Provides guidance and information relating to land development and stormwater and flood plain management.

## Casper, WY

<http://www.casperwy.gov/>

### Community Development Department

- The Community Development Department has six divisions: Planning, Building, MPO, Housing and Community Development, Urban Renewal, and Code Enforcement.
- The Planning Division is responsible for administering the policies, programs and regulations that manage growth and development: advise the City Manager, the Planning and Zoning Commission, and the City Council on matters affecting physical development within the city; assists the public with floodplain information and requests for zone changes, annexations, Conditional Use Permits, plats/replats, variances and exceptions, and site plans.
- The Building Division administers and enforces building codes.
- Metropolitan Planning Organization (MPO) administers the area transportation planning programs and manages transit services.
- Total staff for the three divisions listed above of 14 - 1 Director, 1 MPO Supervisor, 1 Planner, 1 Planning Technician, 1 Building Division Manager, 6 Inspectors, 1 Administrative Secretary, and 2 Accounting Technicians.

Information on engineering review services is not available.

## Cheyenne, WY

<http://www.cheyennecity.org/>

### Planning and Development Department

- The Planning and Development Department has five divisions: Urban Planning, Development Office, MPO, and Building Office.
- Total staff of 28 – 1 Planning Services Director, 1 Urban Planning Director, 1 MPO Director, 1 Development Director, 1 Assistant Development Director, 1 Chief Building Official, 1 Assistant Chief Building Official, 6 Planners, 4 Technicians (2 Permit, 1 Planning, 1 Development), 1 Development Inspector, 6 Building Inspectors, 1 Plans Examiner, 1 Public Information Officer, 1 Office Manager, and 1 Permit Clerk.
- Urban Planning provides the following services: Long Range Planning, Annexation, Historic Preservation, Commission/Boards, Public Outreach and Information, and the drafting of the Unified Development Code.
- The Development Office handles all matters related to land use and current planning. This work includes: annexations, platting, site plan approval, temporary use permits, variances, vacations, and zone changes
- The MPO administers the areas transportation planning programs.
- The Building Office administers and enforces building codes.

### Engineering Services Office

- The Engineering Services Office provides the following services: Construction Plan Review, Engineering Services, Traffic Services, GIS Mapping, City Construction Services, and Flood Plain Management.

- Total staff of 5 – 1 City Engineer, 1 Engineering Services Director, 2 Staff Engineers, and 1 Office Manager.



**Appendix B –**

**Accredited Planning Degree Programs within  
Closest Proximity to Rapid City**

Programs Recognized by the Planning Accreditation Board of the  
American Collegiate Schools of Planning



**University of Colorado Denver** *389 miles*

College of Architecture and Planning

Department of Planning and Design

Campus Box 126, P.O. Box 173364

Denver, CO 80217-3364

Master of Urban and Regional Planning

Thomas Clark, Chairperson

[tom.clark@ucdenver.edu](mailto:tom.clark@ucdenver.edu)

303.556.3296

[www.cudenver.edu/Academics/Colleges/ArchitecturePlanning/](http://www.cudenver.edu/Academics/Colleges/ArchitecturePlanning/)

Accreditation through December 31, 2011

Dept phone: 303.556.4866; Dept fax: 303.556.3687

**Iowa State University** *597 miles*

College of Design

Department of Community and Regional Planning

146 College of Design

Ames, IA 50011

Bachelor of Science in Community and Regional Planning

Master of Community and Regional Planning

Douglas M. Johnston, Chair

[dmjohnst@iastate.edu](mailto:dmjohnst@iastate.edu)

515.294.8958

[www.design.iastate.edu/CRP](http://www.design.iastate.edu/CRP)

Accreditation through December 31, 2012

Dept phone: 515.294.8958; Dept fax: 515.294.2348

**Kansas State University** *631 miles*

College of Architecture, Planning &amp; Design

Department of Landscape Architecture/Regional and Community Planning

302 Seaton Hall

Manhattan, KS 66506-2909

Master of Regional and Community Planning

Stephanie Rolley, FASLA, AICP, Department Head

[strolley@k-state.edu](mailto:strolley@k-state.edu)

785.532.5961

<http://capd.ksu.edu/larcp/>

Accreditation through December 31, 2015

Dept phone: 785.532.5961; Dept fax: 785.532.6722

**University of Minnesota** *576 miles*  
Humphrey Institute of Public Affairs  
Urban and Regional Planning Program  
301 19th Ave South  
Minneapolis, MN 55455  
Master of Urban and Regional Planning  
Ragui Assaad, Interim Director  
[assaad@umn.edu](mailto:assaad@umn.edu)  
612.625.4856  
<http://www.hhh.umn.edu/degrees/murp/index.html>  
Accreditation through December 31, 2015  
Dept phone: 612.624.3800; Dept fax: 612.625.6351

**University of Nebraska-Lincoln** *516 miles*  
College of Architecture  
Community & Regional Planning Program  
302 Architecture Hall  
Lincoln, NE 68588-0105  
Master of Community & Regional Planning  
Kim L. Wilson, ASLA, RLA, Director  
[kwilson4@unl.edu](mailto:kwilson4@unl.edu)  
402.472.9230  
[www.unl.edu/archcoll/crp/index.html](http://www.unl.edu/archcoll/crp/index.html)  
Accreditation through December 31, 2013  
Dept phone: 402.472.9280; Dept fax: 402.472.3806

**Appendix C –**

**2008 Annual Salary Survey of 12,940 Full-Time Planners**

Conducted by the  
American Planning Association



**Table C-1. 2008 Salary Survey of Planners**

<b>Annual Salary Range</b>	<b>% of Planners</b>
\$150,000 or more	4%
\$125,000 — \$149,999	4%
\$100,000 — \$124,999	11%
\$90,000 — \$99,999	7%
\$80,000 — \$89,999	10%
\$70,000 — \$79,999	14%
\$60,000 — \$69,999	16%
\$50,000 — \$59,999	17%
\$40,000 — \$49,999	13%
\$30,000 — \$39,999	4%
less than \$30,000	0%
<b>Percentile</b>	<b>Annual Salary</b>
10th percentile:	\$45,000
25th percentile:	\$54,000
50th percentile:	\$70,000
75th percentile:	\$90,000
90th percentile:	\$118,000





**Appendix D -**

**\*Model Unified Development Permit Review Process Ordinance**

Recommended by the  
American Planning Association

\*Section 4.5 Model Unified Development Permit Review Process Ordinance  
*Model Smart Land Development Regulations*  
Interim PAS Report, © American Planning Association, March 2006



## Introduction to the Model Ordinance

The model ordinance below establishes a unified development permit review process. It brings together the various types of development permissions and related approvals under a single procedural umbrella while retaining the authority of permit-approving officers and bodies. The model also groups in one place the application requirements, the schedule for action, and decision-making criteria for different types of land-use decisions. The ordinance draws on statutory models contained in the American Planning Association's *Growing Smart Legislative Guidebook* (2002 edition), Sections 10-201 to 211 as well as the State of Oregon's *Model Development Code and User's Guide for Small Cities* (September 1999), Section 4 (Applications and Review Procedures).

The unified development permit review process applies to all land-use decisions, whether by the legislative body, the planning commission, a hearing officer, or a specialized body (e.g., a historic preservation commission). The permit review process has three elements: (a) a completeness review for applications; (b) action on the development application itself; and (c) an appeal process.

Under the model, an applicant for a development permit, a preliminary approval (such as that for a preliminary subdivision), or a zoning district map amendment applies to the local government for approval. The local government, through the appropriate official, determines within a certain period of time whether the application is complete (i.e., all the mechanical requirements for submitting an application are present). If it is complete, the local government issues a completeness determination and processes the application according to the standards in the land development regulations. If the local government determines the application is not complete, the applicant has a certain period of time in which to respond with the needed information. If the applicant does not respond, the application is automatically rejected, unless provisions for an extension are secured. If the local government fails to conduct a completeness review in the time established by the ordinance, the application is deemed complete.

Action on the development application takes two forms. The first is an administrative review, which is the traditional review for routine building and zoning permits, where no hearing is required and an administrative officer makes the decision. The second type of review requires a record hearing (e.g., an application for a conditional use permit) before the approving authority. In such a hearing, a complete record, including a transcript of the hearing, is created. After such a hearing, the approving authority makes a written decision. With both application types, a decision must occur within certain time limits, although extensions are possible, or the application is deemed approved.

Any person aggrieved by the land-use decision may appeal it to an appeals board, which would be the board of zoning appeals in most communities, although it could be a hearing officer. For a land-use decision that was the result of a record hearing, the appeals board

reviews only the written record and does not hold another hearing. For a land-use decision that is the result of an administrative review, the appeals board must hold a record hearing.

Not all land-use decisions are subject to appeal, however. For example, a city council's refusal to amend the text of the zoning ordinance, which is a legislative action, could not be appealed. Similarly, a preliminary subdivision denial could not be appealed because the decision is not a final one, allowing development to occur. Denial of a final subdivision plat, however, could be appealed.

The model also creates a consolidated permit review process for development projects that require multiple permits. The zoning administrator or another designated official serves as the permit review coordinator and has discretion in scheduling hearings. Hearings may be combined in order to reduce their number. Under the consolidated permit review process, the zoning permit, which serves as the master permit, is the last permit issued, and it signifies that the developer has obtained all subordinate development permissions.

The consolidated permit review process, however, only applies to development projects for which the local government issues permits. It would not apply, for example, to projects that require state and local approval under separate application procedures (i.e., a project needing both building and zoning permits from the local government and a wetland permit for a state department). While it is possible to tailor a review process that would combine state and local approvals, such a process would of necessity call for action from both levels of government.

The model authorizes the permit review coordinator to establish a technical review committee of local government officials and officials from other governmental agencies, (e.g., health departments or the local soil and water conservation district) and nongovernmental agencies (e.g., the local utility company). Finally, Section 106 of the model establishes a procedure for the rendering of written interpretations of the land development regulations upon request.

## The Model Permit Review Process Ordinance

### 101. Purpose

The purposes of this ordinance are to:

- (a) Provide for the timely consideration of development permit review applications;
- (b) State the requirements for applying for and receiving a development permit;
- (c) Authorize a consolidated permit review process for land-use decisions; and
- (d) State the manner for the appeal of land-use decisions.

### 102. Authority

This ordinance is enacted pursuant to the authority granted by [*cite to state statute or local government charter or similar law*].

### 103. Definitions

As used in this ordinance, the following words and terms shall have the meanings specified herein:

“Administrative Review” means a review of an application for a development permit based on documents, materials, and reports, with no testimony or submission of evidence as would be allowed at a record hearing.

“Aggrieved” means that a land-use decision has caused, or is expected to cause, [*special*] harm or injury to a person, neighborhood planning council, neighborhood or community organization, or governmental unit, [*distinct from any harm or injury caused to the public generally*]; and that the asserted interests of the person, council, organization, or unit are among those the local government is required to consider when it makes the land-use decision.

*Comment: The definition of “aggrieved” determines who can be party to a hearing, who can submit information in an administrative review, who has standing in an appeal, who can appeal decisions to hearing officers, and who can bring judicial appeals. The “aggrieved” test has two elements: (1) harm or injury, and (2) an interest that the local government was required to consider in making its decision. Inclusion of the bracketed language requires persons claiming standing to demonstrate they have suffered harm distinct from the harm to the general public. Removing the bracketed language still requires a showing of harm or injury but not a demonstration that the harm is in some way special or unique. In most states, the local government is required to consider the interest of abutting and confronting property owners when making certain types of land-*

*use decisions. In others, they may consider the interests of neighborhood associations, which do not own property.*

“Appeals Board” means any officer or body designated by the legislative body to hear appeals from land-use decisions.

*Comment: The appeals board could be a single hearing examiner or the board of zoning appeals.*

“Approving Authority,” means the officer or body with the authority to make a land-use decision.

“Certificate of Appropriateness” means the written decision by a local historic preservation or design review board that a proposed development is in compliance with a historic preservation or design review ordinance.

“Chief Building Official” means the local government official responsible for administering and enforcing the building code, including the issuance of building permits.

“Code Interpretation” means a written decision issued by the Permit Review Coordinator or other designated administrative official regarding the interpretation of any provision set forth in the land development regulations.

“Completeness Determination” means a written finding by a local government official that a development permits application contains all required information in order that it can be reviewed for compliance with land development regulations and a land-use decision can be made.

“Conditional Use” means a use or category of uses authorized, but not permitted as of right, by a local government’s land development regulations in designated zoning districts.

“Development Permit” means any written approval or decision by a local government under its land development regulations that gives authorization to undertake some category of development, including, but not limited to, a building permit, zoning permit, final subdivision plat, minor subdivision, resubdivision, conditional use, variance, appeal decision, planned unit development, site plan, [and] certificate of appropriateness [.] [, and zoning district map amendment(s) by the legislative body]. “Development permit” does not mean the adoption or amendment of a local comprehensive plan or any sub plan, the adoption or amendment of the text of land development regulations, or a liquor license or other type of business license.

*Comment: In some states, a parcel-specific rezoning decision is an administrative or policy decision and can therefore be treated as a development permit. In most states, however, a rezoning is a legislative decision and, for this reason, the phrase is placed in brackets. Individuals adapting this model should consult with an attorney licensed in their state to determine the status of zoning map amendments.*

“Land Development Regulations” mean any building, zoning, subdivision, impact fee, site plan, floodplain or stormwater regulations, or other governmental controls that affect the use, density, or intensity of land.

“Land Use” means the conduct of any activity on land, including, but not limited to, the continuation of any activity, the commencement of which is defined herein as “development.”

“Land-Use Decision” means a decision made by an approving authority on a development permit application, and includes decisions made following a record hearing or record appeal, and preliminary approvals and amendments to the zoning map and text. A “completeness decision,” “development permit,” and “master permit” are “land-use decisions” for the purposes of this ordinance.

“Master Permit” means the permit issued by a local government under its land development regulations and any other applicable ordinances, rules, and statutes that incorporates all development permits together as a single permit and that allows development to commence.

*Comment: The master permit is the unification of all development permits necessary for a land development. For example, in order to build a single-family home in a subdivision that has been platted, it may be necessary to obtain only a building permit (approving the plans for the residence itself) and a zoning permit (indicating that the use is allowed and the structure meets zoning standards. If the two permits are granted, the master permit would automatically be issued, allowing development to commence.*

“Permit Review Coordinator” means the [zoning administrator or other designated administrative official] that is responsible administering the consolidated permit review process and for issuing a master permit.

“Preliminary Approval” means an approval by the local government that is a condition precedent to the approval of a development permit but does not by itself allow development to commence.

“Record” means the written decision on a development permit application and any documents identified in the written decision as having been considered as the basis for the decision.

“Record Appeal” means an appeal to a local government officer or body from a record hearing on a development permit application.

“Record Hearing” means a hearing, conducted by the approving authority that creates the local government’s record through testimony and submission of evidence and information, under the procedures required by this ordinance. “Record hearing” also means a record hearing held in an appeal, when no record hearing was held on the development permit application.

“Rezoning” means an amendment that changes the zoning district map.

“Variance” means a minor departure from any of the numerical dimensional requirements of the land development regulations.

“Zoning Administrator” means the local government official responsible for administering and enforcing the zoning code and land development regulations, including the issuance of zoning permits and master permits.

“Zoning Permit” means the development permit signed by the zoning administrator that is a condition precedent to the commencement of a use or the construction, reconstruction, restoration, alteration, conversion, or installation of a structure or a building, which confirms that such use, structure, or building complies with the zoning code, and that also serves as the master permit in the consolidated permit review process.

**104. Schedule for decisions on development permits and preliminary approvals; application requirements; preapplication meetings**

- (1) The purpose of this Section is to identify the types of development permits issued by the [name of local government], who is responsible for determining whether applications are complete, whether an application can be approved, whether a record hearing is required, and the maximum number of days after the completeness determination for a decision on the application.
- (2) Decisions on development permit applications, preliminary approvals, and amendments to the zoning map and the text of the land development regulations shall be made according to the following schedule.

Type of Development Permit, or Preliminary Approval (P.A.), or Legislative Action (L.A.)	Citation to Authorizing Section	Approving Authority	Responsibility for Completeness Determination	Record Hearing Required	Maximum Review Time in days for Land-use Decision after Completeness Determination
Building permit	[Insert citation]	Chief Building Official	Chief Building Official	No	30
Zoning permit	[Insert citation]	Zoning Administrator	Zoning Administrator	No	30
Sign permit	[Insert citation]	Zoning Administrator	Zoning Administrator	No	15
Conditional use permit	[Insert citation]	Planning Commission	Zoning Administrator	Yes	45
Variance	[Insert citation]	Board of Zoning Appeals	Zoning Administrator	Yes	45



Type of Development Permit, or Preliminary Approval (P.A.), or Legislative Action (L.A.)	Citation to Authorizing Section	Approving Authority	Responsibility for Completeness Determination	Record Hearing Required	Maximum Review Time in days for Land-use Decision after Completeness Determination
Planned unit development preliminary development plan—P.A.	[Insert citation]	Legislative Body	Zoning Administrator	No	60
Planned unit development final development plan	[Insert citation]	Legislative Body	Zoning Administrator	Yes	60
Subdivision preliminary plan—P.A.	[Insert citation]	Planning Commission	Zoning Administrator	No	60
Subdivision final plat	[Insert citation]	Planning Commission	Zoning Administrator	Yes	60
Lot split, minor subdivision, resubdivision	[Insert citation]	Planning Commission	Zoning Administrator	Yes	30
Certificate of appropriateness	[Insert citation]	Historic and Architectural Preservation Commission (or similarly named body)	Zoning Administrator	Yes	45
Zoning district map amendment (L.A.)	[Insert citation]	Legislative Body	Zoning Administrator	[Depends on whether rezoning is legislative or	60

*Comment: This table lists the typical types of development permits and approvals granted by a local government. The times shown are typical but may vary. A building permit is necessary when new construction takes place. A zoning permit is issued when new construction changes a building's exterior dimensions or where there is a change of use. If a conditional use permit for a specific use is granted, a zoning permit is nonetheless required as the final determination that all zoning requirements are satisfied. While approval of a preliminary plan of a subdivision does not by itself authorize development, it is a condition precedent to the review of a final subdivision plat. Consequently, it is included in this table as a "preliminary approval."*

*The table treats a rezoning as a legislative action not requiring a record hearing because the only route of appeal is directly to the courts. Nonetheless, some local governments may treat rezonings as if they were administrative and compile a record, including a*

*transcript of the proceedings. In some states, like Oregon, zoning map changes are considered administrative or quasi-judicial, and require more formal hearings. Because a sign permit is a ministerial action involving no discretion, the time limit on approval is proposed to be 15 days.*

- (3) In computing any period of time prescribed or allowed by this ordinance, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or a legal holiday.
- (4) The permit review coordinator shall prepare and issue a standard form requiring information common to all applications, including:
- (a) Name, address, telephone number, and electronic mail address (if available) of applicant;
  - (b) Address or legal description of the location of the property for which the development permit, preliminary approval, or zoning map amendment is sought;
  - (c) Area in square feet or acres of property described in (4)(b) above;
  - (d) Zoning district designation for property described in (4)(b) above;
  - (e) Type of development permit, preliminary approval, or zoning map or text amendment being sought;
  - (f) For new construction or additions to an existing building or structure, a site plan, drawn to a scale of [insert scale] showing the distances of the new construction or addition to lot lines and the dimensions of the lot; and
  - (g) Fee schedule and location on application form for calculation of the total fee to be charged.

In addition, the coordinator shall prepare forms for specific additional information required for development permits, preliminary approvals, zoning map amendments, and amendments to the text of the land development regulations.

*Comment: Types of information typically required include:*

- *Special information for the different type of developments, such as a subdivision or a conditional use;*
- *Names and addresses of property owners within a certain radius of the property;*
- *Submission of certain drawings in certain formats, such as electronic or on certain drafting media, or at certain scales;*
- *Engineering calculations, including runoff calculations;*

- *Descriptions, in written and graphic form, of mitigation measures; and*
- *Statements explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail for review and decision making.*

(5) In order to be determined complete, an application for a development permit or preliminary approval, a zoning map amendment, or amendment to the text of the land development regulations shall contain the following information:

*Comment: The purpose of this Section is to list all of the application requirements for each type of development permit or similar action. Each of the following types of development permits, preliminary approvals, or applications for zoning map or text amendments requires different types of information, although no attempt has been made to list all of them. Common to each would be: (1) completion of an application form; (2) a scale drawing of the proposed building on the site in relation to lot lines; and (3) payment of the required fee. Building permit application requirements would be governed by the applicable building code, which is often based on a national model. In addition, applications for subdivisions and planned unit developments would require maps drawn in a manner required by the local government and containing certain information.*

*Other information may be required for applications. In some cases, the land development regulations will require a narrative statement describing how the applicant believes the proposal will satisfy the decision-making criteria. For applications that require a record hearing, providing the names and addresses of all owners of record of real property within a certain radius of the site is necessary in order to give notice. Sometimes, technical information will be required. An application for a final plat of a subdivision would be accompanied by engineering plans and calculations for runoff. In the case of a certificate of appropriateness for changes to a historic structure, the applicant would need to submit drawings of building elevations and, in some cases, examples of proposed materials or colors. A zoning map amendment would require a legal description of the property proposed to be rezoned and the name of the specific zoning district classification. In some cases, the legal description would need to be prepared by a registered surveyor to ensure its accuracy.*

(a) Building permit

*[Insert information requirements]*

(b) Zoning permit

*[Insert information requirements]*

(c) Sign permit

*[Insert information requirements]*

(d) Conditional use permit

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[*Insert information requirements*]

(e) Variance

[*Insert information requirements*]

(f) Planned unit development preliminary plan

[*Insert information requirements*]

(g) Planned unit development final plan

[*Insert information requirements*]

(h) Subdivision preliminary plan

[*Insert information requirements*]

(i) Subdivision final plat

[*Insert information requirements*]

(j) Certificate of appropriateness

[*Insert information requirements*]

(k) Lot split, minor subdivision, or resubdivision

[*Insert information requirements*]

(l) Zoning map amendment

[*Insert information requirements*]

(m) Amendment to text of land development regulations

[*Insert information requirements*]

- (6) The permit review coordinator shall be responsible for convening, at the request of an applicant, a preapplication meeting with officials of the local government and other governmental and nongovernmental organizations who would be involved in reviewing and acting on a development, whether or not the applicant is applying for a consolidated permit, provided that no official who is responsible for a land-use decision made on the basis of a record hearing shall participate in the preapplication meeting. At such a meeting, the permit review coordinator shall:

- (a) Identify the comprehensive plan policies and plan map designations applicable to the proposal;
- (b) Identify relevant ordinance provisions, including substantive and procedural requirements, applicable to the proposal;
- (c) Provide available technical data that will aid the applicant;
- (d) Identify other governmental policies and regulations that relate to the proposal; and
- (e) Identify any other reasonable opportunities or constraints concerning the application.

Failure of the permit coordinator to provide any of the information in (a) to (e) above shall not constitute a waiver of any criteria or requirements for the application.

*Comment: Paragraph (6) allows the permit review coordinator to convene meetings for the applicant that would include local government officials, the local public health department, and the local utility company. All would be involved, for example, in the review of a subdivision. Such a committee could also include officials from adjoining local governments where the development would be located partly in another jurisdiction.*

*One advantage of such a meeting is that, early in the design process, the applicant would be given information that clarifies how the land development regulations collectively apply to the property. This will prevent problems arising from applicants misunderstanding development regulations and then spending time and money to have plans prepared that may violate the development regulations. In addition, it allows an applicant to determine if variances, which are minor departures from the strict and literal interpretation of the zoning ordinance, are in fact needed for the project, or if good design alternatives are available that lessen or eliminate the need for variances.*

*The limitation on the participation of certain officials in the pre-application meeting is to ensure that officials who must make a decision based on a record created at a hearing are not involved in ex parte contacts with applicants or others. For example, if a development involved a variance from the board of zoning appeals, a member of the board of zoning appeals could not participate. On the other hand, a preapplication meeting could involve the local government's engineer, building official, and planning director.*

- (7) The permit review coordinator may establish a technical advisory committee officials of the local government and other governmental and nongovernmental organizations who would be involved in reviewing and acting on a development to coordinate action on applications for development permits and preliminary approvals. A technical advisory committee, however, shall have no authority to approve, approve with conditions, or deny applications.

*Comment: Paragraph (7) describes the type of technical advisory committee typically established within a local government to review certain types of development involving multiple decision makers (e.g., subdivisions and PUDs). It is important, for example, that*

*the views of the health department in terms of minimum lot size for a septic tank or friendliness to pedestrians and bicyclists be taken into consideration by the planning department in the review of a subdivision. Similarly, the parks and recreation department may have an opinion on the location of a proposed park in a new subdivision or PUD.*

#### **105. Consolidated permit review process; permit coordinator**

- (1) The purpose of this Section is to establish a process by which an applicant may apply at one time for a master permit for all development permits, preliminary approvals, and zoning map amendments needed for a development and to have the application considered by approving authorities in a timely manner that minimizes the number of record hearings.
- (2) An applicant for a master permit shall apply to the permit review coordinator on forms provided by the local government.
- (3) The permit review coordinator shall be responsible for:
  - (a) Serving as the single point of contact with the applicant and other officials, boards, commissions, and the public in the consolidated permit review process;
  - (b) Distributing permit application material to the officials and the boards and commissions responsible for determining the completeness of the application, approving individual development permits, and taking other actions listed in Section 1-104 above;
  - (c) Scheduling record hearings;
  - (d) Issuing a completeness determination for those permits listed in Section 1-104 other than building, permits, and amendments to the text of the land development regulations (in the case of master permits, the permit coordinator shall be responsible for coordinating completeness reviews on behalf of the local government and providing the applicant with copies of all completeness determinations by all local government officials, as applicable); and
  - (e) Issuing the master permit.
- (4) The permit review coordinator shall have the discretion to schedule a single record hearing for all types of development permits or to schedule multiple record hearings in phases before approving authorities. These hearings are to be limited to reviewing the specific type of development permit that is the subject of the hearing so that the review of the application may be completed within the time limit set for a master permit. If more than one approval authority would be required to decide on applications, the decision shall be made by the approving authority having original jurisdiction over one of the applications in the following order of preference:
  - (a) [Legislative body]
  - (b) Planning commission
  - (c) Board of zoning appeals

- (d) [Zoning hearing examiner, if applicable]
- (e) [Historic and architectural preservation commission, if applicable]
- (f) [Local health department, if applicable]
- (g) Chief building official
- (h) [Other local government official]
- (i) Zoning administrator

*Comment: It is possible to structure a record hearing in which all decision-making officials and bodies attend and participate in the hearing, but then make their decisions separately on the record. Rather than requiring this, the ordinance gives the local government the flexibility to decide whether one record hearing or multiple record hearings on different aspects of the development permit would be appropriate.*

- (5) The permit coordinator shall issue the master permit immediately if all subordinate permits have been approved. The zoning permit shall also serve as the master permit.

#### **106. Completeness review of application; when application is deemed complete**

- (1) The purpose of this Section is to establish a process by which the local government determines whether an application for a development permit, preliminary approval, or a zoning map amendment or amendment to the text of the land development regulations is complete before making a decision on the application, and, if it is not complete, identifying for the applicant the necessary information to make it complete.
- (2) When an application for a development permit, an application for preliminary approval, or a zoning map amendment or amendment to the text of the land development regulations is received by the [local government], the approving authority shall immediately determine whether the following items are present:
  - (a) Required forms
  - (b) Required fee
  - (c) Signature of the applicant on the required form and signed written authorization of the property owner of record if the applicant is not the owner.

If items (a) through (c) are not present, the approving authority shall not accept the application and shall immediately return it to the applicant.
- (3) Within [30] days after receiving a application for a development permit, preliminary approval, or a zoning map amendment or amendment to the text of the land development regulations, the approving authority shall make a written determination to the applicant stating that the application is complete or that the application is incomplete, precisely identifying what information is necessary to make the application complete.
- (4) If the approving authority determines that the application is incomplete, the approving authority shall identify in its determination the parts of the application that are incomplete

and shall indicate the manner in which they can be made complete, including a list and specific description of the additional information needed to complete the application. The applicant shall then submit this additional information to the approving authority within [30] days of the determination pursuant to paragraph (2) above. If the applicant fails to submit the additional information to the approving authority within [30] days of the determination pursuant to paragraph (3), the application shall be deemed incomplete, and shall be denied, unless the approving authority agrees in writing to a longer period.

- (5) The approving authority shall determine in writing whether an application is complete within [30] days after receipt of the additional information indicated in the list and description provided to the applicant under paragraph (4) above.
- (6) A development permit application is deemed complete under this Section if the local government does not provide a written determination to the applicant that the application is incomplete within [30] days of the receipt of an application under paragraph (3) above or within [30] days of the receipt of any additional information submitted under paragraph (4) above.
- (7) A development permit application is complete for purposes of this Section when it meets the completeness requirements of, or is deemed complete under, this Section, even though additional information may be required or modifications in the development may occur subsequently. The completeness determination does not preclude the local government from requesting additional information or studies either at the time of the notice of completeness or subsequently if new information is required or substantial changes in the proposed development occur.
- (8) Once an application is complete for the purposes of this Section or is deemed complete under this Section, and the applicant submits additional documents or other information, the approving authority shall determine whether the new documents or other information significantly changes the application. If the approving authority determines that the new documents or other information significantly changes the application, the decision maker shall include as part of the decision a written determination that a significant change has occurred. Alternatively, the decision maker may inform the applicant in writing that such changes may constitute a significant change and allow the applicant to withdraw the new materials or information submitted in order to avoid a determination of significant change. If the applicant's new documents or information are determined to constitute a significant change in an application that was previously determined or deemed complete, the local government decision maker shall take one of the following actions, at the option of the applicant:
  - (a) Continue to process the existing application and allow the applicant to submit a second new application with the proposed significant changes. The old and new applications will both proceed through the review process, but each will be determined or deemed complete on different dates and therefore may be subject to different criteria and different decision dates.
  - (b) Suspend consideration of the existing application upon the written request of the applicant and allow the applicant to submit a new application with the proposed significant changes that will be subject to a new completeness review.



(c) Reject the new documents or other information determined to constitute a significant change and continue processing the existing application without considering the materials that would constitute a significant change.

### 107. Decision-making criteria

In making a decision for the following types of development permits, preliminary approvals, zoning district map amendments, and amendments to text of the land development regulations, the approving authority shall apply the following criteria, provided that approval, denial, or approval with conditions shall be based on the criteria applicable at the time the application was first accepted:

*Comment: The criteria the local government approving authority uses to make the particular land-use decision should be set forth under each of the following headings. Because each set of land development regulations contains unique criteria for different types of land-use decisions or because statutes might establish the criteria independent of local regulations (as in the case of a variance), this model does not attempt to describe all of them. Examples of the language to be used are under the headings of a building permit, a zoning permit, and a zoning district map amendment. If this Section is drafted using an internal citation style rather than the style setting forth the complete criteria, the internal citation should be as specific as possible. For example, if the criteria for approving a conditional use permit appear in Article 12 of the zoning code, but the precise language is in Section 12-103(2), the internal citation should refer to that Section, including paragraph (2). Doing so will eliminate confusion as to what parts of a code actually constitute "criteria."*

#### (a) Building permit

The chief building official shall approve an application for a building permit if the official finds that the application complies with the relevant provisions of the building code.

#### (b) Zoning permit

The zoning administrator shall approve an application for a zoning permit:

1. If the administrator finds that the application complies with the relevant provisions of the zoning code; and
2. If the application requires an additional development permit, the approving authority for such development permit has either approved the application or has approved it with conditions, which shall be incorporated as conditions of the zoning permit.

A zoning permit shall not be required for any construction that does not alter the exterior dimensions of a building or structure.

#### (c) Sign permit

The zoning administrator shall approve an application for a sign permit if the administrator finds that the application complies with the relevant provisions of the sign code.

(d) Conditional use permit

*[Insert decision-making criteria]*

(e) Variance

*[Insert decision-making criteria]*

(f) Planned unit development preliminary plan

*[Insert decision-making criteria]*

(g) Planned unit development final plan

*[Insert decision-making criteria]*

(h) Subdivision preliminary plan

*[Insert decision-making criteria]*

(i) Subdivision final plat

*[Insert decision-making criteria]*

(j) Certificate of appropriateness

*[Insert decision-making criteria]*

(k) Lot split, minor subdivision, and resubdivision

*[Insert decision-making criteria]*

(l) Zoning district map amendment

A proposed amendment to the zoning district map shall be consistent with the local comprehensive plan. The legislative body shall find that the proposed amendment to the zoning map is consistent with the local comprehensive plan when the amendment:

1. Furthers, or at least does not interfere with, the goals and policies contained in the local comprehensive plan;
2. Is compatible with the proposed future land uses and densities and/or intensities contained in the local comprehensive plan; and
3. Carries out, as applicable, any specific proposals for community facilities, including transportation facilities, other specific public actions, or actions

proposed by nonprofit and for-profit organizations that are contained in the local comprehensive plan.

In determining whether the proposed amendment to the zoning map satisfies the requirements of subparagraph (l)1 above, the legislative body may take into account any relevant guidelines contained in the local comprehensive plan.

(m) Amendment to the text of land development regulations

### **108. Administrative review; responsibility for completeness review**

(1) Building permits and zoning permits are subject to administrative review.

*Comment: In some communities, lot splits, minor subdivisions (subdivisions of three to four lots and not involving any public improvements or dedication), and resubdivisions (redrawing of lot boundaries without creating new lots) are subject to an administrative review, bypassing a planning commission, and could be included in paragraph (1). In such a case, a record hearing would not be required, and Section 104 would need to be changed to eliminate it.*

(2) An applicant for a building or zoning permit shall submit an application to the chief building official or zoning administrator, respectively, on forms provided by the local government. An applicant for a master permit that incorporates a building permit and a zoning permit shall submit the application to the permit coordinator.

(3) Any decision on a building or zoning permit or master permit that incorporates a building permit and a zoning permit shall be accompanied by a checklist stating applicable codes or regulations that the chief building official or zoning administrator applied in making the decision.

(4) In the event the chief building official or zoning administrator denies a building permit or a zoning permit, the official or administrator shall state in writing the reasons for denial and the code Sections relied upon in making the decision.

### **109. Applications not involving solely administrative reviews**

For any development permit application that requires a record hearing as specified in Section 104, the applicant shall apply to the zoning administrator on forms provided by the local government.

### **110. Record hearing; notice requirements**

(1) If an approving authority holds a record hearing on a development permit application, it shall provide notice of the date of the record hearing within [15] days of a completeness determination on the application under Sections 106(3) to 106(5) above, or within [15] days from the date an application is deemed complete under Section 106(7) above. Notice of the record hearing shall be mailed at least [20] days before the record hearing, and the record hearing must be held no longer than [30] days following the date that notice of the record hearing is mailed. A local government may hold a record hearing at

a later date, but no more than [60] days following the date that notice of the record hearing was mailed, if state agencies or other local governments must approve or review the development application, or if the applicant for a development permit requests an extension of the time at which the record hearing will be held.

(2) The notice of the record hearing shall:

(a) State the date, time, and location of the record hearing and the body or officer that will hold the hearing;

(b) Explain the nature of the application and the proposed use or uses that could be authorized;

(c) List the land development regulations and any goals, policies, and guidelines of the local comprehensive plan that apply to the application;

(d) Set forth the street address or other easily understood geographical reference to the subject property;

(e) State that a failure to raise an issue at a record hearing, in person or by letter, or the failure to provide statements or evidence sufficient to afford the local government an opportunity to respond to the issue, precludes an appeal to the appeals board based on that issue, unless the issue could not have been reasonably known by any party to the record hearing at the time of the record hearing;

(f) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, and any applicable land development regulations or goals, policies, and guidelines of the local comprehensive plan are available for inspection at no cost and will be provided at reasonable cost;

(g) State that a copy of any staff reports on the application will be available for inspection at no cost at least [7] days prior to the record hearing and will be provided at actual cost;

(h) State that a record hearing will be held and include a general explanation of the requirements for the conduct of the record hearing; and

(i) Identify, to the extent known by the local government, any other governmental units with jurisdiction over some aspect of the application.

#### **111. Record hearing; methods of giving notice**

*Comment: This Section should specify the manner in which the local government gives notice for the record hearing. Requirements for notice may be stated in state statutes or the local government may have latitude to establish its own methods. For that reason, no ordinance language has been provided. Alternatives for notice include:*

- *Conspicuous posting of the notice on the property for site-specific development proposals;*

- *Publishing the notice, including at least the development location, description, type of permit(s) required, and location where the complete application may be reviewed, in a newspaper of general circulation in the jurisdiction of the local government and giving notice by publication on the Internet;*
- *Posting the notice on a bulletin board in a conspicuous location in the principal offices of the local government;*
- *Making certain the manner of publication or posting of the notice takes into account the culture of the affected community by, for example, writing the notice in Spanish for a Hispanic area;*
- *Mailing of the notice to all adjacent local governments and to all state agencies with jurisdiction over the development application; and*
- *Mailing the notice to abutting and confronting property owners or property owners within a certain radius of the site; and*

*This Section should also indicate how far in advance of the record hearing notice must be given, either through publication, posting, or mailing. If the request is for a consolidated permit procedure, the notice must identify each application to be deciding as a consequence of the record hearing. Finally, the Section should indicate how the information is to be presented so that a layperson can understand whether the property in question is located, who owns or has control of it, which is the applicant, and what the matter to be decided is.*

## **112. Record hearing; conduct of hearing**

- (1) This Section applies when a local government holds a record hearing on a development permit application as required by Section 104 above.
- (2) The applicant or any person who will be a party to or will testify or would like to testify in any record hearing shall submit all documents or evidence on which he or she intends to rely to the local government, which shall make them available to the public at least [7] days prior to the record hearing.
- (3) The local government shall make any staff report it intends to use at the record hearing available to the public at least [7] days prior to the record hearing.
- (4) Any governmental unit with jurisdiction over the development application and any abutting or confronting owner or occupant, may be a party to a record hearing held under this Section. Any other party or governmental unit may be a party to any record hearing held under this Section if it would be aggrieved by a land-use decision on the development permit application.
- (5) The following procedures apply to the conduct of the record hearing:
  - (a) The officer presiding at a record hearing or such person as he or she may designate [shall or may] have the power to conduct discovery and to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant

evidence, including witnesses and documents presented by the parties. The presiding officer may call any person as a witness whether or not he or she is a party.

(b) The presiding officer shall take the testimony of all witnesses relating to a development permit application under oath or affirmation and shall permit the right of cross-examination to all parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer and to reasonable limitations on the time and number of witnesses.

(c) Technical rules of evidence do not apply to the record hearing, but the presiding officer may exclude irrelevant, immaterial, or unduly repetitious evidence.

(d) If a party to the record hearing provides additional documents or evidence, the presiding officer may allow a continuance of the record hearing or leave the record open to allow other parties a reasonable opportunity to respond.

(e) The local government shall provide for the verbatim recording and written transcription of the record hearing, and shall furnish a copy of the recording and transcription, on request, to any interested person at the requestor's expense, provided that the cost does not exceed the actual cost of making the recording and transcription.

(6) Any decision-making officer or member of an approving authority who has a direct or indirect financial interest in property that is the subject of a record hearing, who is related by blood, adoption, or marriage to the owner of property that is the subject of a record hearing or to a party to the record hearing, or who resides or owns property within [500] feet of property that is the subject of a record hearing shall recuse himself or herself from the matter before the commencement of the record hearing and shall state the reasons for such recusal.

*Comment: State laws may establish stricter rules governing conflict of interest than those in paragraph (6).*

### **113. Record hearing; findings, decision, and notice**

- (1) Where a development permit application requires a record hearing pursuant to Section 104, the approving authority may approve or deny a development permit application, or may approve an application subject to conditions.
- (2) Any decision on a development permit application shall be based on and accompanied by a written statement by the approving authority that:
  - (a) states the land development regulations, goals, policies, and guidelines of the local comprehensive plan relevant to the decision;
  - (b) states the facts relied upon in making the decision;
  - (c) explains how the decision is based on the land development regulations, the goals, policies, and guidelines of the local comprehensive plan (including the future land-use plan map), and the facts set forth in the written statement of the comprehensive plan;

- (d) responds to all relevant issues raised by the parties to the record hearing; and
- (e) states the conditions that apply to the development permit, must be satisfied before a certificate of compliance can be issued, and are continuing requirements and apply after a certificate of compliance is issued.

Where the application involves the issuance of a master permit, the approving authorities shall make separate written statements on each application for a development permit.

- (3) The approving authority shall give written notice of its decision to all parties to the proceeding [and shall publish its decision in a newspaper of general circulation and on its Internet site].
- (4) Within [30] days of a request for clarification of findings, decisions, and conditions specifically included in the written notice of decision pursuant to paragraph (2) above, the approving authority shall issue a written clarification concerning those specific findings and decisions. Notice of the clarification shall be given in the same manner as the notice of decision pursuant to paragraph (3) above.

#### **114. Time limits on decisions**

- (1) If the approving authority for a development permit fails to approve, conditionally approve, or disapprove a development permit application within the time period stated in Section 104 after it makes a written determination that a development permit application is complete, or from the time a development application is deemed complete, the failure to act shall be deemed an approval.
- (2) The approving authority and the applicant for a development permit may mutually agree to an extension of the time limits for a decision specified in paragraph (1) above for a period not in excess of [90] days.
- (3) If an application for a development permit is deemed approved under this Section, the approving authority shall send by mail written notice that the permit has been deemed approved to all:
  - (a) parties to the record hearing, and
  - (b) persons and governmental units that submitted documents and materials to the administrative review.
- (4) The time limits for the decision specified in this Section do not run during any period:
  - (a) of less than [30] days during which a local government requests additional studies or information concerning a development permit application; or
  - (b) in which the local government is unable to act upon development permit applications due to circumstances beyond the local government's control, including a reasonable period for resubmission of development permit applications and related materials destroyed, damaged, or otherwise rendered unusable.

#### **115. Appeals**

*Comment: This Section describes an appeals procedure concerning land-use decisions. It gives the authority to an appeals board to hear appeals. The appeals board can hear appeals: (a) on the record, which occurs where there has already been a record hearing (e.g., when there has been a hearing on a conditional use permit); and (b) subject to a record hearing held by the appeals board, which would occur in the case of an administrative decision (e.g., the decision on a zoning permit). An appeals board could not, however, hear appeals it had previously heard. One situation needs special attention. If there is an existing board of zoning appeals and it is charged with serving as the appeals board, an alternate body must be designated as the appeals board in the case of record appeals on variances. A good alternative is to assign the job of conducting the review to a hearings officer.*

- (1) The appeals board shall have the authority to hear and decide appeals where it is alleged there is error in a land-use decision made by an approving authority. An appeal of a land-use decision may be taken to the appeals board within [30] days after the decision is issued or within [30] days after the date the application is deemed approved under Section 114:
- (a) by the applicant for the development permit and any party to the record hearing if there has been a record hearing; or
- (b) if there has been an administrative review:
1. by the applicant for the development permit; or
  2. by any person or governmental unit aggrieved by the land-use decision.
- There shall be no more than one record appeal on an application for a master permit.

*Comment: The authority of the appeals board extends only to appeals administrative in nature. Consequently, the appeals board cannot hear decisions that are not final (e.g., preliminary approvals of subdivisions or decisions on zoning map amendments and amendments to the land development regulations).*

- (2) The party appealing must file a notice of appeal specifying the grounds for the appeal with the approving authority that made the decision that led to the appeal, and with the appeals board. The approving authority that made the decision that led to the appeal shall transmit to the appeals board the record for the land-use decision that the party is appealing.
- (3) The appeals board may dismiss an appeal if it determines the notice of appeal is legally insufficient on its face.

*Comment: If a record hearing has been held on a development permit application, any person who could be aggrieved has the opportunity to become a party to the hearing, so this Section limits appeals to persons who became parties. If there has been an administrative*



*review without a hearing, there has been no opportunity to establish party status, so the applicant and any person aggrieved may appeal.*

- (4) An appeal that is not dismissed shall stay any and all proceedings to enforce, execute, or implement the land-use decision being appealed. Any development authorized by said land-use decision, unless the approving authority that made the decision that led to the appeal certifies in writing to the appeals board that a stay in the decision or development thereunder would cause immediate and irreparable harm to the appellant.
- (5) The appeals board shall set the time and place at which it will consider the appeal, which shall be no more than [20] days from the time the appeal was filed. The appeals board shall give at least [10] days' notice of the appeal hearing to the approving authority that made the decision that led to the appeal and to the parties to the appeal.
- (6) The appeals board shall hold a hearing on the record in a record appeal. The appeals board may take supplementary evidence in record appeals only in those limited cases in which it makes a written finding that evidence proffered by any party was improperly excluded from the record hearing. If the appeals board decides to take supplementary evidence, it shall provide mailed notice of this decision to all parties to the record hearing that was appealed and shall hold a record hearing as required by the local government's unified development review process.
- (7) An appeals board shall issue a written decision after the record hearing in which it may reverse or affirm, wholly or in part, or may modify a land-use decision that has been appealed, and shall have the authority in making such a decision to exercise all the powers of the approving authority that made the decision that led to the appeal, insofar as they concern the issues stated in the appeal. A tie vote is an affirmation of the decision that was appealed.
- (8) The appeals board shall not make findings of fact unless the board has taken evidence supplementing the record on appeal, in which case it shall make findings of fact based on this evidence and shall make a decision based on such findings.
- (9) In an appeal from an administrative review, the appeals board shall hold a record hearing and make a decision as provided in Sections 110 to 114 above.
- (10) The appeals board shall mail a notice of any decision to the parties to the appeal and to the [local planning agency or code enforcement officer] of the local government within [30] days of the commencement of the hearing.
- (11) The appeals board shall keep written minutes of its proceedings, showing the vote of each member upon each appeal or, if absent or failing to vote, indicating that fact, and shall keep records of its official actions in its office.

- (12) The [name of legislative body] shall adopt rules of procedure for the appeals board.

#### **116. Code Interpretations; Index of Interpretations**

- (1) Any person(s) may submit a written request for a code interpretation to the Permit Review Coordinator or any other designated administrative official regarding any applicable title or any subsequent amendment thereto.
- (2) The Permit Review Coordinator or other designated administrative official shall render only one interpretation per issue. In the event an interpretation is requested on an issue previously addressed, the Permit Review Coordinator or other designated administrative official shall provide a copy of the previous interpretation to satisfy such request.
- (3) At a minimum, the request for code interpretation shall include:
  - (a) the section of land development regulations that is allegedly ambiguous or needing clarification;
  - (b) the subject matter or nature of the request; and
  - (c) facts relevant to the nature of the request.
- (4) The Permit Review Coordinator or other designated administrative official may deny or reject the request if there is no ambiguity or need for the clarification demonstrated by the requestor.
- (5) The Permit Review Coordinator or other designated administrative official shall provide a quarterly report to the [legislative body] on code interpretations rendered. The report shall include, if necessary, any recommendations for amendments.
- (6) All code interpretations shall be numbered consecutively in order of their issuance. The Permit Review Coordinator shall maintain such interpretations for public access and review in hard copy and on its Internet site until such time as the applicable section of the land development regulations is amended to provide the necessary clarification and to establish an index that refers to the applicable section of the land development regulations and the number of code interpretations.

#### **Resources:**

Irvine, California, City of. Zoning Ordinance, Chapter 2-2, Administrative Relief Procedure, Chapter 2-35, Use Determination Procedure. Website [portal to zoning codes of Irvine and other California cities, accessed December 14, 2004]: <http://ceres.ca.gov/planning/zoning/city.html>

Milwaukee, Wisconsin, City of. Zoning Code, Subchapter 3, Administration, Enforcement, and Appeals, Section 291.311.5, Administrative Appeals [accessed December 14, 2004]: <http://www.mkedcd.org/czo/>

Otak, *Model Development Code and User's Guide for Small Cities* (1999). Available in hard copy from the Transportation and Growth Management Program, Oregon Department of Land Conservation and Development, 635 Capitol Street NE, Suite 200, Salem, OR 97301-2450, tel. 503-373-0050.

Pierce County, Washington, County Code, Title 1.22, Hearing Examiner Code, and Title 18, Development Regulations, General Provisions (application filing, department review, public notice, time periods, code interpretations, and enforcement and penalties); and website [accessed December 14, 2004]:

[www.co.pierce.wa.us/pc/services/home/property/pals/regs/regs.htm](http://www.co.pierce.wa.us/pc/services/home/property/pals/regs/regs.htm)



