

Ordinance No. 6031

AN ORDINANCE TO AUTHORIZE THE PLANNING COMMISSION TO ACT AS THE ZONING BOARD OF ADJUSTMENT BY AMENDING SECTION 17.54.010 OF THE RAPID CITY MUNICIPAL CODE

WHEREAS, the Common Council has adopted Section 17.54.010 of the Rapid City Municipal Code which sets forth the organizational elements of the zoning code found in Title 17; and

WHEREAS, R.C.M.C. 17.54.010.B establishes the Board of Adjustment and discusses appointment of its members and the Board's powers and authority;

WHEREAS, SDCL 11-4-13 permits the Planning Commission to act as the Zoning Board of Adjustment and to exercise the powers conferred upon the Zoning Board of Adjustment in state law; and

WHEREAS, the Common Council believes it serves the general interest and welfare of the City to amend its ordinances to permit the Rapid City Planning Commission to act as the Zoning Board of Adjustment.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City, that Section 17.54.010 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

17.54.010 Organization.

A. *Administration.* The provisions of this title shall be administered by the city's Building Official and the city's Community Planning and Development Services Department.

1. The city's Building Official shall:
 - a. Issue all building permits and make and maintain records thereof;
 - b. Issue all certificates of occupancy and make and maintain records thereof;
 - c. Issue and renew where applicable all temporary use permits and make and maintain records thereof;
 - d. Conduct inspections as prescribed by this title and such other inspections as are necessary to ensure compliance with the various provisions of the title; and
 - e. Prepare reports and recommendations for applications to be reviewed by the Board of Adjustment.
2. The Director of the Community Planning and Development Services Department (Director) shall:

- a. Maintain and keep current zoning maps and records of amendments thereto;
 - b. Maintain and keep current the comprehensive plan and amendments thereto;
 - c. Direct Department staff and Development Review Team to prepare reports and recommendations for applications to be reviewed by the Planning Commission and City Council; and
 - d. Perform the review and approval of applications for minor amendments and other administrative procedures as prescribed by this title.
3. The Development Review Team (DRT) is composed of city staff and representatives of outside agencies that have an interest in or would be affected by a proposed application. The Director of Community Planning and Development Services shall maintain a list of current members and may revise the list. The Director or designee within the department will select members from the DRT list and forward applications to the selected members for review and comment. Copies of the DRT list are available for inspection in the office of the Director.

B. *Board of Adjustment.*

1. ~~*Established—members—terms.*~~ The Planning Commission as set forth in Section D below shall serve as the Board of Adjustment establishment of a Rapid City Board of Adjustment, hereafter referred to as the Board is authorized. The Board shall be composed of 5 residents of Rapid City who are not members of any governing body. The members shall be appointed by the Mayor and approved by the Common Council. Two members shall be appointed for terms of 1 year, 2 for terms of 2 years and 1 for 3 years; thereafter, all terms shall be for 3 years and vacancies shall be filled for the unexpired term only. The Common Council shall have the power to remove any member of the Board for cause upon written charges and after a public hearing.
2. ~~*Chairperson—Rules of conduct—meetings.*~~ The Board shall elect a Chairperson from its membership, shall appoint a Secretary and shall prescribe rules for the conduct of its affairs. The Board shall meet at the call of the Chairperson, and at such other times as the Board may determine, at a fixed time and place. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. It shall have power to call on any other city departments for assistance in the performance of its duties, and it shall be the duty of such other departments to render all such assistance as may be reasonably required. In the case of appeals, the Board shall call upon the Common Council for all information pertinent to, and their recommendations.

3. *Powers of the Board of Adjustment.* The Board has the authority to compel the attendance of witnesses at hearings and to administer oaths and in furtherance of their duties shall have the following powers:
 - a. Appeal. The Board shall have the power to hear and decide appeals wherein it is alleged there is an error in any order, requirement, decision or determination made by an administrative official pursuant to this title;
 - b. Special exception. To hear and decide, in accordance with the provisions of any such ordinance, requests for special exceptions or for interpretation of the zoning map; and
 - c. Variance. Where there are practical difficulties or unnecessary hardship of carrying out the strict letter of this title, in any way, the Board shall have the power, in passing upon appeals, to authorize the variance from the terms of this title as will not be contrary to the public interest and so that the intent of the title shall be observed and substantial justice done.
4. Voting. Pursuant to state law, the concurring vote of at least two-thirds of the members of the Board is necessary to decide in favor of the applicant on an appeal, special exception, or variance. Accordingly, no such action may be taken unless two-thirds of the members of the Board are in attendance at the public hearing.

C. *Common Council.* The Common Council shall:

1. Establish such rules of procedure as are necessary to the performance of its functions hereunder;
2. Review and decide all applications for amendments to the city zoning map and comprehensive planning documents in accordance with § 17.54.040;
3. Study and report on all proposed amendments to this title; further, to review annually this title and, on the basis of the review, suggest amendments thereto; and
4. Hear appeals for denials by the Planning Commission of conditional use permits and planned development overlay districts, or other provisions of this title as applicable.

D. *Planning Commission.* The Planning Commission shall:

1. Review and approve conditional use permits, planned development overlay districts, and any other provisions designated by this title;
2. Review and make recommendations to the City Council on preliminary subdivision plans, zoning applications, zoning ordinance revisions, subdivision ordinances and amendments to the city comprehensive plan; and

3. Provide direction for the orderly growth of the city as prescribed by Chapter 2.60 of the Municipal Code; and
4. Serve as the Zoning Board of Adjustment, pursuant to SDCL 11-4-13.

CITY OF RAPID CITY

Mayor

ATTEST

Finance Officer

(seal)

First Reading:
Second Reading:
Published:
Effective: