

CHAPTER 17.54.: ADMINISTRATION AND ENFORCEMENT

Section

- 17.54.010 Organization.
- 17.54.020 Variances.
- 17.54.030 Procedures for authorization of c Conditional use permits.
- 17.54.040 Zoning, rezoning, zoning ordinance, and comprehensive plan A amendments.
- 17.54.050 Certificate of occupancy.
- 17.54.060 Conflicts with other laws.
- 17.54.065 Owners signature required.
- 17.54.070 Penalties.

17.54.010 Organization

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

1. The city's Building Official Inspector 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; and
 - 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 & 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 & 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 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. Board members shall serve no more than two consecutive terms and must wait three years before serving on the Board for another term. 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. 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 title 17;
 - b. 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. 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.

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 conditional uses in accordance with §17.54.040. §17.50.010 through 17.50.180;
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. Until such time that a Board of Adjustment has been appointed, the Common Council shall have full power to function as a board in their jurisdiction.

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.

(Ord. 3760 (part), 2001: prior code Appendix A, Art. VII (§ 1))

17.54.020 Variances

The purpose of the variance is to modify the strict application of the specific requirements of this title in the case of exceptionally irregular, narrow, shallow or steep lots or other exceptional physical conditions, whereby the strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of the reasonable use of his or her land. The variance shall be used only where necessary to overcome some obstacle which is preventing an owner from using his or her property as the zoning ordinance intended.

- A. *Application* After written denial of a building permit by the Building Official, a property owner may apply to the Board of Adjustment for a variance. A fee of \$250 shall be paid by the property owner at the time of application for each application submitted. The fee amount shall be set by City Council by resolution.
- B. *Public hearing—Publication and mailing of certified notice.*
 1. Upon receipt of an application and fee, the Board shall hold a public hearing, having first given 10-days' notice. The notice of the time and place of the hearing shall be published in a daily paper of general circulation. The Board shall consider and decide the applications for variances within 30 days of the public hearing and in accordance with the following standards. No building permit shall be issued by the Building Official Inspection Department until 7 business days after the granting of a variance.
 2. *Adjacent Property Owner Notification.* Public notice shall be sent to all owners of property adjacent to or within 250 feet of the perimeter of the property inclusive of public

right-of-way. Notice shall be sent by first class mail at least ten days prior to the public hearing. When adjacent property is owned by a subdivision or condominium association, notification may be sent to the management company or board of such association. The city shall require the applicant to sign a certified affidavit prior to the public hearing as evidence to document compliance with the requirements of this section. The city may decide to perform the adjacent property owner mailing and shall notify the applicant in writing prior to scheduling the public hearing.

The applicant for a variance or his or her agent or agents, shall include in his or her application postal registration data that substantiates applicant's good faith attempt to mail certified letters with return receipts to all property owners within 250 feet inclusive of right-of-way.

- C. *Standards for variances.* In granting a variance, the Board shall ascertain that the following criteria are met:
1. Variances shall be granted only where special circumstances or conditions (such as exceptional narrowness of a lot, topography or siting), fully described in the finding of the Board, do not apply generally in the district;
 2. Variances shall not be granted to allow a land use otherwise excluded from the particular district in which requested.
 3. For reasons fully set forth in the findings of the board, the aforesaid circumstances or conditions are such that the strict application of the provisions of this title would deprive the applicant of any reasonable use of his or her land. Mere loss in value shall not justify a variance; there must be a deprivation of beneficial use of land;
 4. Any variance granted under the provisions of this section shall be the minimum adjustment necessary for the reasonable use of the land; and
 5. The granting of any variance is in harmony with the general purposes and intent of this title and will not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the comprehensive plan for development.
- D. *Requirements for the granting of a variance.* Before the Board shall have the authority to grant a variance, the person claiming the variance has the burden of showing:
1. That the granting of the permit will not be contrary to the public interest;
 2. That the literal enforcement of this title will result in unnecessary hardship;
 3. That by granting the permit contrary to the provisions of this title the spirit of this title will be observed;
 4. That by granting the permit, substantial justice will be done.
- E. *Court review of Board.*
1. Any person, firm or corporation aggrieved by any decision of the Board may present to the court of competent jurisdiction a petition fully verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of illegality. The petition shall be presented to the court within 30 days after the filing of the decision in

the office of the Board. The petition shall not be filed with respect to the decision of the Building Inspector or any administrative officer without recourse to the Board.

2. Upon the presentation of the petition the court may allow a writ of certiorari directed to the Board to review the decision of the Board. The Board shall be required to turn over to the court certified copies of all papers acted on by it, and any other information as may be pertinent and material to show the grounds of the decision appealed from. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take evidence, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.
3. Costs shall not be allowed against the Board unless it shall appear to the court that the Board acted with gross negligence or in bad faith or with malice in making the decisions appealed from.

(Ord. 3833 (part), 2002; Ord. 3713, 2001; prior code Appendix A, Art. VII (§ 2))

17.54.030 Procedures for authorization of Conditional Use Permits.

The following procedures are established to integrate properly conditional use permits with other land uses located in the district. These uses shall be reviewed by the Planning Commission, and authorized, rejected, or, revoked under the following procedures:

- A. *Application process and submittal requirements. Approval procedures.* The procedures of this section shall be followed in making application for approval of a conditional use permit or for an amendment to a conditional use permit.

1. *Application Process.* The owner and/or designated agent shall submit the required application, number of copies of the Conditional Use Permit, and the appropriate supporting documents to the Community Planning & Development Services Department for review. Upon receipt of a complete application and the required information, the DRT shall complete its review and provide a recommendation to be forwarded to the Planning Commission with or without stipulations. Upon review by the DRT, if determined that the application is incomplete, the applicant will be notified in writing of the deficiencies and the application will not be scheduled for a public hearing before the Planning Commission until such time as the deficiencies in the application have been corrected. If a decision by the DRT is contested by the applicant, an appeal can be filed with the City Council. Once the application is complete, the recommendation shall be provided to the owner and/or designated agent and the Director shall place the application and recommendation on the next available Planning Commission agenda, with consideration for the required public notice. The Planning Commission will review the application and DRT recommendations and formally act on the application. The Planning Commission's final decision may be appealed to the City Council.

2. **Submittal requirements** An application shall be filed with the Planning Department. The application shall show the location and intended use of the site. The applicant shall submit a dimensioned site plan drawn to scale which reflects the specifics of the proposed project, with including building setbacks, approach locations and internal traffic circulation. Specifics on site development shall include, but not be limited to parking, loading and unloading dock areas with truck turning radii, landscaping, fencing, retaining walls, signage, lighting, dumpster location and screening, exterior mechanical equipment and screening, building elevations with building heights, and building colors and materials, and roof top design and membrane color. A dimensioned site plan drawn to scale which reflects the specifics of the proposed project, with building setbacks, approach locations and internal traffic circulation, shall be submitted. The application shall also include an operations plan detailing the hours and days of operation, number of employees, average daily peak trips generated, type of equipment or processes used, description, location, and quantity of hazardous materials (existing and used), list of regulatory agencies, contact name, phone number and their inspection frequency. City staff may require additional information or technical studies such as drainage studies, construction plans, address plats, and development agreements.
Fees. A fee of \$250 shall be paid at the time of filing any application for a conditional use permit; however, if a permit for a limited time period has previously been issued, and all conditions for the permit have been met throughout the term thereof, the renewal fee may be waived at the discretion of the Planning Director. If the application is for the amendment of a conditional use permit the fee shall be \$250 for a major amendment. There is no charge for a minimal amendment.
3. **Notification.** Notification of surrounding property owners, tenants and interested parties shall be accomplished by posting a sign on the property and by mailing notices of public hearing to neighboring property owners.
 - a. **Posting of sign.** A sign noting the fact that a conditional use permit approval, on-sale liquor establishment approval or major amendment is pending shall be posted on the site not less than 7 days before the public hearing before the Planning Commission. The sign shall be maintained on the site until the Common Council has taken action on the request or the petition is withdrawn. Approved signs shall be secured from the Planning Department who shall require a reasonable deposit sufficient to cover the cost of replacement of the sign or signs and who shall determine the number and location of the sign or signs to be posted on the site addressed in the petition for conditional use permit.
 - b. **Adjacent Property Owner Notification.** Public notice shall be sent to all owners of property adjacent to or within 250 feet of the perimeter of the property inclusive of public right-of-way. Notice shall be sent by first class mail at least ten days prior to the public hearing. When adjacent property is owned by a subdivision or condominium association, notification may be sent to the management company or board of such association. The city shall require the applicant to sign a certified affidavit prior to the public hearing as evidence to document compliance with the requirements of this section. The city may decide to perform the adjacent property owner mailing and shall notify the applicant in writing prior to scheduling the public hearing.

- Mailing of certified notice.* The petitioner shall submit postal receipts to demonstrate a good faith attempt to notify by certified letter with return receipt all property owners within 250 feet, inclusive of public right-of-way, of the site measured from the perimeter of the lot, lots or portions thereof which contain the buildings and area dedicated to the proposed use. If the intended use of the occupied site is to be an on-sale liquor establishment, the petitioner shall submit postal registration data that substantiates the good faith attempt to mail certified letters with return receipts to all property owners within 250 feet of the perimeter of the occupied site inclusive of public right-of-way. The certified mailings shall include the date set for the hearing before the Planning Commission and contemplated uses, and shall be on a form provided by the Planning Department. The property owners listing shall be prepared by the Pennington County director of equalization office and based on their records of ownership and addresses.
- c. *Publication.* The notice of the time and place of the Planning Commission hearing shall be published in a daily paper of general circulation at least 7 days and not more than 15 days prior to the hearing date.
- B. *Fees* A fee of \$250 shall be paid at the time of filing any petition an application for a conditional use permit or major amendment for a conditional use permit; provided, however, that, if a permit has previously been issued, and all conditions for the permit have been met throughout the term thereof, the renewal fee may be waived at the discretion of the Planning Directors. The fee amount shall be set by City Council by resolution. If the application is for the amendment of a planned development plan or a conditional use permit, the fee shall be \$250 for a major amendment.
- C. *Planning Commission to review and act at public hearing.* The city's Planning Commission at a public hearing shall review and act upon all conditional use permit applications. The action of the Planning Commission shall occur only after having given a 7-day prior notification in a daily newspaper of general circulation. The city's Planning Commission shall act on all applications within 60 days of submission of the application, or the application shall automatically be approved; provided, however, that, the applicant for approval may waive this requirement in writing and consent to the extension of the period. The action of the city's Planning Commission shall be final except in the event of an appeal being filed in which case the procedures outlined in § 17.54.030F. shall be followed.
- D. *Restrictions* In the exercise of its approval, the Planning Commission may impose such conditions regarding the location, character or other features of the proposed use or existing and proposed buildings and structures as it may deem advisable in the furtherance of the general purposes of this title. Unless otherwise approved by the Planning Commission, the Conditional Use Permit shall be approved for use by the original applicant only and not approved for the property.
- E. *Criteria for review* In reviewing applications for a conditional use permit, due consideration shall be given to the following:
1. The location, character and natural features of the property;

2. The location, character and design of adjacent buildings;
 3. Proposed fencing, screening and landscaping;
 4. Proposed vegetation, topography and natural drainage;
 5. Proposed pedestrian and vehicular access, circulation and parking, including that related to bicycles and other unpowered vehicles and provisions for handicapped persons;
 6. Existing traffic and traffic to be generated by the proposed use;
 7. Proposed signs and lighting;
 8. The availability of public utilities and services;
 9. The objectives of the adopted comprehensive plan and the purpose of the ordinance codified herein;
 10. The overall density, yard, height and other requirements of the zone in which it is located;
 11. The effects of noise, odor, smoke, dust, air and water pollution and the degree of control through the use of clarifiers, screening, setbacks and orientation; and
 12. The degree to which conditions imposed will mitigate any probable adverse impacts of the proposed use on existing adjacent uses.
- F. *Appeal procedures* Any person or party property owner, subdivision or condominium association provided notice within the prescribed adjacent property owner notification radius in section 17.54.030.A.3.b. within has the right to appeal the decision of the Planning Commission regarding any conditional use permit application. Appeals must be made in writing and submitted to the Director Planning Department by close of business on the seventh full calendar day following action by the Planning Commission. Appeals shall be reviewed and acted upon by the Common Council in accordance with the requirements of this section. The action of the Common Council shall occur only after having given a 7-day prior notification in a daily newspaper of general circulation.
- G. *Issuance of permit.* Upon completion of the necessary application, hearing and approval of the Planning Commission and after the expiration of the appeals time period, the Building Official Inspector shall issue the building permit subject to all applicable rules, regulations and conditions.
- H. *Validity of plans* All approved plans, conditions, restrictions and rules made a part of the approval of the Planning Commission shall constitute certification on the part of the applicant that the proposed use shall conform to the regulations at all times.
- I. *Amendments* The conditions of approval of a conditional use permit may be amended. Amendments are considered major or minimal and are addressed in the following manner.
1. Major amendments must be reviewed by the Planning Commission, under the provisions of subsection A. through E. of this section. A major amendment is required when:
 - a. A change to a Another conditional use is proposed;
 - b. A change to specific stipulations addressed approved by the Planning Commission in the initial approval or a subsequent amendment that would specifically prohibit the approval of a minor amendment;

- c. The structure and/or occupied site is substantially enlarged. A structure or site is considered to be substantially enlarged when the gross square footage increases by more than 20% or 2,000 square feet, whichever is less. The land or site which supports the use is considered to be substantially enlarged when the gross square footage of the occupied site increases by 10% or 10,000 square feet, whichever is less; and
 - d. The Planning Director determines that the proposed change is major and requires public hearing review.
2. Minimal amendments must be reviewed and approved by the Planning Director. A minimal amendment includes minor amendments and administrative exceptions listed in §§ 17.50.050.G.2., 17.50.060.G, and 17.50.070. involves a change to the site plan affecting any or all of the following: parking, circulation, landscaping, lot coverage by buildings or building setbacks. The Planning Director shall determine that the proposed modification to the site will not have a significant adverse impact on neighboring properties, the street network or the appearance of the property in approving a minimal amendment. The Planning Director shall consider the criteria outlined in subsection E. of this section to determine if the proposed modifications still meet the requirements of a conditional use permit.
- J. *Revocation of conditional use permit.* A conditional use permit may be revoked only for cause, consisting of failure to maintain the standards required for the initial conditional use permit. A notice of intent to revoke a conditional use permit shall be given in writing 30 days prior to actual revocation and shall specify the area or areas of continued failure to meet requirements and maintain conditions the city may have imposed. If, during that period, proof of compliance is made by the holder of the conditional use permit, the conditional use permit shall be continued in force. If a hearing has been requested following receipt of notice of intent to revoke, the Planning Commission shall hold a public hearing on the matter and make a final determination on the revocation.
- K. *Expiration and extension of time period.*
1. *Expiration.* A conditional use permit shall automatically expire if:
 - a. The primary use for which it was granted has ceased for a period of 2 1 years or more; or
 - b. The primary use proposed under the conditional use permit has not been undertaken and completed according to the terms and conditions of the conditional use permit within 2 years of the approval of the conditional use permit. A conditional use permit is considered approved upon the effective date of the Planning Commission or Common Council's action, resolution or ordinance relating thereto.
 2. *Extension of period.* Notwithstanding the provisions of subsection JK.1. of this section, the Planning Commission, may as part of the original conditional use permit or as a major amendment to the conditional use permit extend the period of the conditional use permit where it is warranted in light of the relevant circumstances, including, but not limited to

the size and phasing of the development, economic cycles and market conditions. All conditional use permits approved prior the effective date of the ordinance codified in this subsection shall be exempt from the provisions of this section.

(Ord. 5502, 2009: Ord. 3833 (part), 2002: Ord. 3827, 2002: Ord. 3771, 2002: Ord. 3760 (part), 2001: Ord. 3690 (part), 2001: Ord. 3371, 1997: Ord. 3013, 1993: Ord. 2931 (part), 1992: Ord. 2860, 1991: prior code Appendix A, Art. VII (§ 4))

17.54.040 Zoning, rezoning, zoning ordinance, and comprehensive plan Amendments.

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

- A. *Application.* An application for a proposed zoning or comprehensive plan amendment shall be filed with the city's Planning and Zoning Commission. Amendments may be instituted by the property owner or his or her designated representative, by an appropriate governmental agency, or by the city's Planning and Zoning Commission. For rezone applications submitted by the city or the city's Planning and Zoning Commission, the following additional application requirements shall apply to any rezoning other than an initial designation of property as no use district:
1. The property owner's signature as set forth on the Director of Equalization's records must be included on a disclosure statement provided by the city informing the property owner(s) of the property proposed for rezoning.
 2. The disclosure statement shall provide a written accounting of the estimates for any costs of subsequent zoning applications included but not limited to:
 - a. Application fees for any subsequent rezoning, conditional use permit, planned development, comprehensive plan or variance applications including the mailing costs;
 - b. A statement of any requirement for a professional to complete drawings, plans or studies necessary to submit such subsequent applications and shall advise the property owner(s) to seek information regarding the costs of such possible professional fees from said professionals;
 - c. The sign deposit fees;
 - d. The time frames for processing any subsequent applications, the requirement for public hearings and a disclosure that the property owner(s) may not prevail in such applications or hearings; and
 - e. A statement of the current use of the property, whether or not that use will be allowed under the zoning district regulations for the proposed district, any provisions for the existing use being a legal non-conforming or "grandfathered" use and the circumstances that result in the legal non-conforming status being lost.
 3. The city shall make a good faith effort to obtain the signatures on the disclosure statement as provided above by sending such disclosure statement to the property

owner(s) by first class mail certified, return receipt requested at least twice with a minimum of 21 business days between the 2 mailings. If the property owner(s) do not respond within 21 business days of the second mailing, the city or the city's Planning and Zoning Commission may proceed with submitting the application. For the purposes of this section, the lack of a response within the described time frame shall be deemed the same as signing the disclosure statement. Nothing herein shall preclude the governing body from taking such action on the application as deemed appropriate once the required notification procedures described herein have been met.

- B. *Public hearings.* Upon application, the city's Planning and Zoning Commission shall hold a public hearing thereon, subject to the same notice requirements as set forth herein for the Common Council, and then submit its report to the Common Council. The proposed amendment shall be adopted as other ordinances, except that the city's Finance Officer shall cause to be published once a week for at least 2 successive weeks prior to the date of the adoption of the ordinance, a notice of the time and place when and where all persons interested shall be given a full, fair and complete hearing.
- C. *Time limit and notification.* All proposed amendments shall be decided by the Common Council within 60 days of the public hearing.
- D. *Standards for amendments.* A proposed amendment shall be considered on its own merits using the following criteria as a guide:
1. *Text or map amendments.* The following conditions shall be met for all amendments:
 - a. The proposed amendments shall be necessary because of substantially changed or changing conditions of the area and districts affected, or in the city generally.
 - b. The proposed amendments shall be consistent with the intent and purposes of this title.
 - c. The proposed amendment shall not adversely affect any other part of the city, nor shall any direct or indirect adverse effects result from the amendment.
 - d. The proposed amendments shall be consistent with and not in conflict with the development plan of Rapid City including any of its elements, major road plan, land use plan, community facilities plan and others.
 2. *Corrections.* Errors or oversights as may be found in this title as originally adopted shall be corrected under the normal amendment procedure.
- E. *Rezoning—Posting and maintenance of signs.* In addition to the preceding requirements, the petitioner for rezoning, or his or her agent or agents, shall be required to post and maintain an approved sign or signs on the property included in the rezoning petition, the sign or signs to be posted at least 7 calendar days prior to the Planning Commission meeting at which the petition shall be considered and to be maintained continuously until the rezoning petition has been finally approved or rejected by the Common Council or withdrawn by petition. Approved signs shall be secured from the Department of Community Planning & Development Services Planning Engineer who shall require a reasonable deposit sufficient to

cover the cost of replacement of the sign or signs and who shall determine the number and location of the sign or signs to be posted on the property included in the rezoning petition. This section shall not apply to zoning amendments instituted by the city's Planning and Zoning Commission.

- F. *Rezoning— Mailing of certified notice. Adjacent Property Owner Notification.* Public notice shall be sent to all owners of property adjacent to or within 250 feet of the perimeter of the property inclusive of public right-of-way. Notice shall be sent by first class mail at least ten days prior to the public hearing. When adjacent property is owned by a subdivision or condominium association, notification may be sent to the management company or board of such association. The city shall require the applicant to sign a certified affidavit prior to the public hearing as evidence to document compliance with the requirements of this section. The city may decide to perform the adjacent property owner mailing and shall notify the applicant in writing prior to scheduling the public hearing.

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

- G. *Fees.* A fee shall be paid at the time of filing any application for a zoning amendment. The fee shall be set by resolution of the Common Council.

(Ord. 5811, 2012; Ord. 5712, 2011; Ord. 3833 (part), 2002; Ord. 3013, 1993; Ord. 2894, 1991; prior code Appendix A, Art. VII (§ 5))

17.54.050 Certificate of occupancy.

No new building shall be occupied and no change in occupancy of a building or part of a building shall be made until after the **Building Official inspector** shall have issued a certificate of occupancy therefore as regulated in the current building codes adopted by the City of Rapid City.

(Ord. 4094 (part), 2004; Prior code Appendix A, Art. VII (§ 3))

17.54.060 Conflicts with other laws.

In the interpretation and application of the provisions of this title, these provisions shall be held to be minimum requirement, adopted for the promotion of the public health, morals, safety and the general welfare. Whenever the requirements of this title, are at variance with the requirements of other lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

(Prior code Appendix A, Art. VII (§ 9))

17.54.065 Owners signature required.

Any application submitted pursuant to Title 17, except for zoning or comprehensive plan amendments regulated by § 17.54.040, must be signed by the owner(s) of the property identified in the application, or by their designated agent. If a property identified in an application has more than one owner, the signature, or authorization, of all owners is required. If an application is not specific to a particular parcel or tract, no owner's signature is required.

(Ord. 5799, 2012)

17.54.070 Penalties.

It is unlawful to erect, construct, reconstruct, alter, maintain or use any building or structure, or to use any land in violation of any regulation in this title. Any person, firm, association or corporation who violates, disobeys, omits, neglects or refuses to comply with, or resists the enforcement of any of the provisions of this title shall, upon conviction thereof, be subject to a fine of \$100 together with the cost of the action; every day of violation shall constitute a separate offense. **The standard fine amount shall be set by City Council by resolution.** Compliance therewith may also be enforced by injunctive order at the suit of the city or the owner or owners of real estate within the district affected by the regulation of this title.

(Prior code Appendix A, Art. VII (§ 7))