Ordinance No. 6251

AN ORDINANCE TO AMEND PROVISIONS CONCERNING THE PLANNING COMMISSION BY AMENDING CHAPTER 2.60 OF THE RAPID CITY MUNICIPAL CODE

WHEREAS, in Chapter 2.60 of the Rapid City Municipal Code (R.C.M.C.), the City has adopted provisions concerning the organization and authority of the Rapid City Planning Commission as well as the City’s comprehensive plan authority; and

WHEREAS, R.C.M.C. 2.60.020 discusses the qualification of members of the Rapid City Planning Commission and requires representation from all City wards among the Planning Commission membership; and

WHEREAS, meeting this requirement is difficult because applicants for open Planning Commission positions are frequently from wards other than those wards lacking representation on the Planning Commission; and

WHEREAS, because the ward representation requirement makes it difficult to fill open Planning Commission positions, the Common Council wishes to amend the ordinance to adopt a preference, instead of a requirement, for ward representation among Planning Commission membership;

WHEREAS, R.C.M.C. Chapter 2.60 also incorporates many provisions which restate state law provisions concerning the City’s planning authority; and

WHEREAS, some provisions in R.C.M.C. Chapter 2.60 are based upon state law which has since been repealed; and

WHEREAS, City ordinances which repeat state law provisions is undesirable and duplicative and may generate conflicts if and when the state law is amended or repealed; and

WHEREAS, the Common Council believes it to be in the best interests of the health, safety, and welfare of the City and its citizens to amend R.C.M.C. Chapter 2.60 to update provisions concerning qualifications of Planning Commission members and to remove sections which are duplicative or contradictory to state law.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City, that Chapter 2.60 of the Rapid City Municipal Code be and is hereby amended to read in its entirety as follows:

CHAPTER 2.60: PLANNING COMMISSION

Section
2.60.010 Created–Jurisdiction.
2.60.020 Members–Appointment–Qualifications.
2.60.030 Members–Terms.
2.60.040 Members–Removal.
2.60.050 Vacancies.
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2.60.250 Bond for completion of subdivision.
2.60.260 Assessment provisions for subdivision.
2.60.270 Approval of plats.
2.60.280 Subdivision plats.
2.60.290 Improvements in unapproved streets.
2.60.300 Street construction outside municipality.
2.60.310 New buildings on unapproved streets.

2.60.010 Created–Jurisdiction.

There is created a Planning Commission for the City, and for land within 3 miles of its corporate limits and not located within any other municipality.

(Prior code § 2-236)

2.60.020 Members–Appointment–Qualifications.

A. *Regular members.* The City Planning Commission shall consist of 9 members appointed by the Mayor, subject to the approval of the Common Council. Eight of the members shall be resident electors of the City; 1 of the members shall reside outside the City limits, but within the 3-mile subdivision jurisdiction of the City. Members of the Planning Commission shall be qualified by knowledge or experience to act in matters pertaining to the development and administration of a comprehensive plan of development for the City, and shall not hold any elective office in the municipal government. From and after January 1, 2000, it shall be an objective to have at least 1 member of the Planning Commission be a resident of each of the
wards of the City. Therefore, in appointing members of the Planning Commission, due regard shall be given to obtaining representation from all five wards to that end, no appointment shall be made to the Planning Commission which would result in 2 or more members being from the same ward, if there is no current member who is a resident of 1 of the other wards, provided, nonetheless, that the change of residence of a member of the Planning Commission from one ward to another ward shall not create a vacancy.

B. Alternate members. There will also be appointed 2 alternate members to the Planning Commission. The alternate members shall be appointed in the same manner as the regular members and shall have the same qualifications. The alternate members must be residents of the City, but may be from any ward. The alternate members should attend every meeting as though they were regular members of the Planning Commission. The alternate members can participate and vote at the meeting only when there is an absence or recusal at the meeting that results in less than 9 members being present or voting on a particular matter. Each alternate member shall be designated as either the first or second alternate, with the first alternate participating to fill the first seat that is vacant, and the second alternate participating if there are any additional vacancies. If a regular member should leave during a meeting and the alternate members are not already participating, then the alternates may fill the seat in the same manner as previously described.

C. Council liaison. Council shall designate 1 of its members as a non-voting liaison to the Planning Commission.


2.60.030 Members–Terms.

Each member appointed to the Planning Commission, including alternate members, shall be appointed for a term of 3 years to expire October 1 of the third year; provided, nonetheless, that the Mayor shall make such appointments for shorter terms as shall be appropriate to establish a pattern whereby the terms of 3 or 4 members of the Commission expire on October 1 of each year.


2.60.040 Members–Removal.

The Mayor, with the confirmation of the Common Council, shall after public hearing have authority to remove any member of the Planning Commission for cause which cause shall be stated in writing and made a part of the record of the hearing.

(Prior code § 2-237-(d))

2.60.050 Vacancies.
Any vacancy in a membership on the Planning Commission shall be filled for the unexpired term in the same manner as for appointment.

(Prior code § 2-237-(c))

**2.60.060 Compensation.**

All members of the Planning Commission shall serve as such without compensation, except for actual expenses, which shall be subject to approval of the Common Council.

(Prior code § 2-237(e))

**2.60.070 Organization.**

Upon appointment the Planning Commission shall be called together by the Mayor and shall organize by electing a Chairperson from among its members for a term of 1 year with eligibility for reelection, and may fill such other of its offices as it may create in a manner prescribed by the rules of such Planning Commission.

(Prior code § 2-238)

**2.60.080 Support staff.**

Subject to the approval of the Common Council, the Planning Commission may employ such technical, engineering, clerical and other assistance as may be deemed essential to carry on the work of the Planning Commission. Persons so employed shall be governed by the same rules and regulations covering other municipal employees. In case of the employment of a full-time planning engineer by the City, his or her work shall be performed in cooperation with and under the direction of the Planning Commission. The compensation of all such employees shall be fixed by the Common Council.

(Prior code § 2-241)

**2.60.090 Contracts.**

All contracts and agreements relating to the work of the Planning Commission and for services or materials required by it shall be made by the Common Council or by the Community Development Director in accordance with Chapter 3.04.

(Prior code § 2-242)

**2.60.100 Meetings–Rules.**

The Planning Commission shall hold at least 1 regular meeting each month. Subject to the approval of the Common Council, it shall adopt such rules for transactions, findings and
determinations which shall be a public record. Attendance of 5 or more members constitutes a quorum of the Planning Commission. A motion passes upon a majority vote of the Planning Commission members in attendance, except as provided below.

If the Planning Commission is acting as the Zoning Board of Adjustment pursuant to §Section 17.54.010.B., the concurring vote of at least 2/3 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 6 members of the Board are in attendance at the public hearing. For any other purpose, a quorum of the Board for any other action is 5 members, and any motion other than one regarding an appeal, special exception, or variance passes upon majority vote of the members in attendance.

(Ord. 6036 (part), 2015: prior code § 2-239)

2.60.110 Reporting requirements.

The Planning Commission shall each year on or about May 1 make a report to the Common Council of its proceedings with a statement of its receipts and disbursements and the progress of its work during the preceding year.

(Prior code § 2-240)

2.60.120 Miscellaneous powers.

The Rapid City Planning Commission shall have all powers heretofore granted to zoning commissions and shall also be the Zoning Commission of the City. The Planning Commission may make reports and recommendations relating to the plan and development of the municipality to public officials and agencies, public utility companies, civic, educational, professional and other organizations and citizens. It may recommend to the executive or legislative officials of the municipality programs for public improvements and the financing thereof. All public officials shall, upon request, furnish to the Planning Commission, within a reasonable time, such available information as it may require for its work.

(Prior code § 2-246)

2.60.130 Comprehensive plan–Duty to develop–Requirements.

It shall be a function and duty of the Planning Commission to make and adopt propose a comprehensive plan for the physical development of the municipality, including any areas outside of the boundary and within its planning jurisdiction which, in the Planning Commission’s judgment bear relation to the planning of the City. The comprehensive plan shall be adopted and maintained in compliance with state law, including SDCL Chapter 11-6, and the Planning Commission and Common Council shall be empowered to utilize all authority and jurisdiction found in SDCL Chapter 11-6 for their comprehensive planning functions, with the accompanying maps, plats, charts and descriptive and explanatory matter, shall show the Planning Commission’s recommendation for the physical development, and may include among
other things, the general location, character and extent of streets, bridges, viaducts, parks, 
parkways, waterways, playgrounds, airports and other public ways, grounds, places and spaces;  
the general location of public buildings and other public property, a zoning ordinance for the  
regulation of the height, area, bulk, location and use of private and public structures and  
premises, and of population density as may be provided by law; the general location and extent  
of public utilities and terminals, whether publicly or privately owned, for water, light, power,  
heat, sanitation, transportation, communications and other purposes the acceptanc, widening,  
removal, extension, relocation, narrowing, vacation, abandonment or change of use of any of the  
foregoing public ways, grounds, places, spaces, building, properties, utilities or terminal; the  
general location, character, layout and extent of community centers and neighborhood units, and  
the general character, extent and layout of the replanning of blighted districts and slum  
areas—The Planning Commission may from time to time propose amendments, extensions, or  
additions to the plan or carry any part of subject matter into greater detail.  

(Prior code § 2-243)  

2.60.140 Comprehensive plan—Purpose.  

In the preparations of the comprehensive plan, the Planning Commission shall make careful 
and comprehensive surveys and studies of the existing conditions and probable future growth of  
the municipality and its environs. The plan shall be made with the general purpose of guiding 
and accomplishing a coordinated adjusted, and harmonious development of the municipality  
which will, in accordance with existing and future needs, best promote health, safety, morals,  
order, convenience, prosperity or the general welfare, as well as efficiency and economy in the  
process of development.  

(Prior code § 2-244)  

2.60.150 Comprehensive plan—Adoption.  

The Planning Commission shall adopt prepare a comprehensive plan and shall propose to the  
Common Council the comprehensive plan as a whole by a single resolution or, as the work of  
making the whole comprehensive plan progresses, may from time to time adopt a part or parts  
thereof, any such part to correspond generally with one or more of the functional subdivisions  
of the subject matter of the plan. Before adoption of the comprehensive plan or part thereof the  
Planning Commission shall hold at least 1 public heari ng, Notice of the time and place of  
which shall be given at least 10 days in advance of publication in a newspaper having general  
circulation in the City. The adoption by the Common Council of the comprehensive plan or any  
part, amendment or additions, following the same type of notice and public hearing as described  
above, shall be by resolution carried by the affirmative votes of not less than a majority of all the  
members of the Planning Commission Common Council. The resolution shall refer expressly to  
the maps, descriptive matter, and other matters intended by the Planning Commission Common  
Council to form the whole or part of the plan or part thereof, and the action taken shall be  
recorded on the adopted plan or part thereof by the identifying signature of the Chairperson and  
the Secretary of the Planning Commission Mayor of the City.  

(Ord. 4028, 2004: prior code § 2-245)
2.60.160130 Comprehensive plan—Amendments.

The City’s Planning Commission may recommend changes to the comprehensive plan from time to time as set forth below. Requests for amendments to the comprehensive plan shall follow the procedure set out in this section. Requests for amendments to the comprehensive plan shall follow the procedure set forth below or, in the instance of rezoning, such request(s) shall comply with the procedures set forth in §Section 17.54.040. Requests for rezoning that comply with §Section 17.54.040 shall be deemed to have met the requirements for amendment to the comprehensive plan. The major street plan shall take into consideration the practicality and feasibility of the proposed street extensions. The major street plan shall permit modifications, without amendments to the comprehensive plan, of proposed street extensions and alignments in instances where the general intent of the plan is still fulfilled and where such modifications do not create a disconnected street alignment with existing development. Proposed street extension(s) or alignment modifications that do not meet the general extensions identified in the major street plan shall comply with the procedures set forth below.

A. Application. An application for a proposed amendment shall be filed with the Planning/Community Development Department. Amendments may be initiated by the property owner or his or her designated representative or by an appropriate governmental agency. For amendments initiated by the City’s Planning Commission, the applicant shall be the City.

1. Major Street Plan. The major street plan within the comprehensive plan shall take into consideration the practicality and feasibility of the proposed street extensions. The major street plan shall permit modifications, without amendments to the comprehensive plan, of proposed street extensions and alignments in instances where the general intent of the plan is still fulfilled, where such modifications do not create a disconnected street alignment with existing development, and where the street alignment is not shifted onto another property. All other modifications shall be approved after application and approval as set forth this Section.

B. Public hearings. Upon application, the City’s Planning Commission shall hold a public hearing thereon. Notice of the public hearing shall be published at least 10 days in advance of the hearing in a legal newspaper of the community. After conducting the public hearing, the City’s Planning Commission shall submit its recommendation to the Common Council.

C. Time limit and notification. The City’s Planning Commission shall act on all proposed amendments within 60 days of the public hearing at the city’s Planning Commission. If the City’s Planning Commission fails to act within 60 days, the application shall be forwarded to the Common Council as a recommendation for approval, provided however, that the applicant for approval may waive this requirement in writing and consent to the extension of the period.

D. Standards for plan amendments. A proposed comprehensive plan amendment shall be considered on its own merits using the following criteria as a guide:

1. Whether the proposed change is consistent with the policies and overall intent of the comprehensive plan;
2. Whether the proposed change is warranted by changed conditions within the neighborhood surrounding and including the subject property;

3. Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land;

4. Whether and the extent to which the proposed amendment would adversely affect the environment, services, facilities and transportation;

5. Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern; and

6. Whether and the extent to which the proposed amendment adversely affects any other part of the City, or creates any direct or indirect adverse effects.

E. Comprehensive plan amendment—posting and maintenance of signs. In addition to the preceding requirements, the petitioner for the comprehensive plan amendment, 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 comprehensive plan amendment request. The sign or signs shall be posted at least 7 calendar days prior to the City’s Planning Commission at which the hearing shall be held and shall be maintained continuously until the comprehensive plan amendment request has been finally approved or rejected by the Common Council or withdrawn by petitioner. Approved signs shall be secured from the Planning Department. The Planning Department shall require a reasonable deposit sufficient to cover the cost of replacement of the sign or signs and shall determine the number and location of the sign or signs to be posted on the property included in the comprehensive plan amendment. This section shall not apply to comprehensive plan amendments instituted by the City’s Planning Commission.

F. Comprehensive plan amendments—notification requirements. In addition to the preceding requirements, the petitioner for the comprehensive plan amendment, or his or her designated agent, shall include postal registration data that substantiates petitioner’s good faith attempt to mail certified letters via first-class mail with return receipts to all property owners within 250 feet inclusive of dedicated rights-of-ways of the area described. The certified mailings shall include the date set for the hearing before the City’s Planning Commission and contemplated uses, and shall be on a form provided by the Planning Department. This section shall not apply to comprehensive plan amendments instituted by the City’s Planning Commission. In addition, the Planning Director may convene a neighborhood meeting to present and discuss a proposed amendment.

G. Fees. In addition to the preceding requirements, a fee set by resolution of the Common Council of $250 shall be paid at the time of filing any application for a comprehensive plan amendment. If the legal description of a rezoning application is coterminous with a legal description for a concurrent comprehensive plan amendment application, there shall be only one $250 application fee.
2.60.170 Reasons for disapproval to be conveyed to Common Council.

In case of disapproval, the Planning Commission shall communicate its reasons to the Common Council, and the Common Council, by vote of not less than 2/3 of its entire membership, shall have the power to overrule the disapproval and, upon the overruling, the Common Council or the appropriate board or officer shall have the power to proceed.

(Prior code § 2-248)

2.60.180 Jurisdiction over construction.

If the public way, ground, place, space, building, structure or utility referred to in § 2.60.160, the authorization or financing of which does not, under the law or charter provisions governing the same fall within the province of the Common Council or other body or official of the municipality, then the submission to the Planning Commission shall be by the Board or official having the jurisdiction, and the Planning Commission’s disapproval may be overruled by the Board by a vote of not less than 2/3 of its entire membership or by the official.

(Prior code § 2-249)

2.60.190 Approval of street and public improvements.

The acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment, change of use, acquisition of land for any street or other public way, ground, place, property or structure shall be subject to similar submission and approval and according to §§ 2.60.160 through 2.60.180 and the failure to approve may be similarly overruled.

(Prior code § 2-250)

2.60.200 Failure of Planning Commission to act.

The failure of the Planning Commission to act within 6560 days from and after the date of official submission to it shall be deemed approval, unless a longer period be granted by the Common Council or other submitting official or the applicant provides written consent to extension of the period.

(Prior code § 2-251)

2.60.210 Building or setback lines.

A. From and after the time when the Planning Commission shall have adopted a comprehensive plan which includes at least a major street plan or shall have progressed in its comprehensive planning to the stage of the making and adoption of a major street plan, the
Planning Commission may recommend and the Common Council is authorized and empowered by ordinance to establish, regulate and limit, and to change and amend, building or setback lines on the streets and to prohibit any new building being located within the building or setback lines.

— B. The regulations authorized by this section shall not be adopted, changed or amended until a public hearing has been held thereon.

(Prior code § 2-252)

2.60.220 Plating jurisdiction.

— From and after the time when the Planning Commission shall have progressed in its comprehensive planning to the state of the making and adoption of a major street plan, and shall have filed a certified copy of the major street plan in the office of the Register of Deeds of the county in which the municipality is located, no plat of a subdivision of land lying within the municipality, or of land within 3 miles of its corporate limits and not located in any other municipality, shall be filed or recorded until it shall have been submitted to and a report and recommendations thereof made by the Planning Commission to the Common Council and the Common Council has approved the plat. The plats shall, after report and recommendation of the Planning Commission is made and filed, be approved or disapproved by the Common Council.

(Prior code § 2-253)

2.60.230 Subdivision regulations.

— In exercising the duties granted to it by this chapter, the Planning Commission shall recommend and the Common Council shall, by ordinance, adopt regulations governing the subdivision of land within its jurisdiction, as defined in § 2.60.220. The regulation may provide for the harmonious development of the municipality and its environs; for the coordination of streets within subdivisions with other features of the master plan of the municipality; for adequate open spaces for traffic, recreation, light and air, and for a distribution of population and traffic which will tend to create conditions favorable to health, safety, convenience or prosperity. Before adoption of its subdivision regulations or any amendment thereof, a public hearing thereon shall be held by the Common Council.

(Prior code § 2-254)

2.60.240 Streets and utilities in subdivision.

— Subdivision regulations may include requirements as to the extent of which and the manner in which the streets of the subdivision shall be graded and improved and water, sewer and other utility mains, piping, connections or other facilities shall be installed as a condition precedent to the approval of the subdivision. The regulations may provide for the tentative approval of the plat previous to the improvements and installation; but any such tentative approval shall not be entered on the plat.
2.60.250—Bond for completion of subdivision.

—Subdivision regulations may provide that, in lieu of the completion of the work and installations previous to the final approval of a plat, the Common Council may accept a bond, in an amount and with surety and conditions satisfactory to it, providing for and securing to the municipality the actual construction and installation of the improvements and utilities within a period specified by the Common Council and expressed in the bond; and the municipality is hereby granted the power to enforce the bonds by all appropriate legal and equitable remedies.

2.60.260—Assessment provisions for subdivision.

—Subdivision regulations may provide in lieu of the completion of the work and installations previous to the final approval of a plat, for an assessment or other method whereby the municipality is put in an assured position to do the work and make the installations at the cost of the owners of the property within the subdivision.

2.60.270—Approval of plats.

—The plat shall be approved or disapproved within 90 days after the submission thereof; otherwise the plat shall be deemed to have been approved and a certificate to that effect shall be issued by the Common Council on demand; provided, however, that, the applicant for approval may waive this requirement and consent to the extension of the period. The grounds for disapproval of any plat shall be stated upon the records of the Common Council.

2.60.280—Subdivision plats.

—Any plat submitted for approval shall contain the name and address of a person to whom notice of hearing may be sent; and no plat shall be acted upon by the Common Council without affording a hearing thereon, notice of the time and place of which shall be sent by mail to the address not less than 5 days before the date fixed therefor.

2.60.290150—Improvements in unapproved streets.

For areas within the City’s plating jurisdiction, from and after the time when the plating jurisdiction of the municipality shall have attached by virtue of the adoption of a major street plan as provided in § SDCL 11-6-26, the City municipality or other public authority shall not
accept, lay out, open, improve, grade, pave or light any street, or lay or authorize the laying of 
water mains, sewers, connections, or other facilities or utilities in any street within the 
municipalityCity unless the street shall have has been accepted or opened, or shall have has 
otherwise received the legal status of, a public street prior to the adoption application of a 
comprehensive plan, or unless the street corresponds in its location and lines with a street shown 
on a subdivision plat made by and adopted by the Planning Commission approved by the City, 
extcept as provided in SDCL 11-6-37.

(Prior code § 2-260)

2.60.300 Street construction outside municipality.

The Common Council, or, in the case of a street outside of the municipality, the governing 
body of the outside territory, may locate and construct or may accept any other street if the 
ordinance or other measure for the location and construction or for the acceptance be first 
submitted to the Planning Commission for its approval, and, if disapproved by the Planning 
Commission, be passed by not less than 2/3 of the entire membership of the Common Council or 
the governing body; and a street approved by the Planning Commission upon the submission, or 
constructed or accepted by the 2/3 vote after disapproval by the Planning Commission, shall 
have the status of an approved street as fully as though it had been originally shown on a 
subdivision plat approved by the Common Council or on a plat made and adopted by the Planning Commission.

(Prior code § 2-261)

2.60.310 New buildings on unapproved streets.

For areas within the City’s platting jurisdiction, from and after the time when the platting and 
jurisdiction of the municipality shall have attached by reason of the adoption of a major street 
plan as provided in § 2.60.220, no building permit shall be issued for, or no building shall be 
erected on, any lot within the territorial jurisdiction of the Planning Commission as provided in 
§ 2.60.220, unless the street giving access to the lot upon which the building is proposed to be 
placed shall be accepted or opened as, or shall have has otherwise received the legal status of, a 
public street prior to that time, or unless the street corresponds in its location and lines with a 
street shown on a subdivision plat approved by the Common Council or on a street plat made 
and approved by the Common Council or with a street located or accepted by the Common 
Council, or in the case of territory outside of the municipal corporationCity, by the governing 
body thereof, after submission to the Planning Commission and, in case of the Planning 
Commission’s disapproval by the favorable vote required in §§ 2.60.290 and 2.60.300. Any 
building erected in violation of this section shall be deemed an unlawful structure, and the 
municipalityCity or other governing body may bring action to enjoin the erection or cause it to 
be vacated or removed.

(Prior code § 2-262)