

AN ORDINANCE TO AMEND TITLE TWO AND CORRESPONDING SECTIONS OF THE RAPID CITY MUNICIPAL CODE TO ACCURATELY REFLECT CURRENT DEPARTMENTAL ORGANIZATION

WHEREAS, the City of Rapid City's organizational structure requires occasional review, to ensure our departments are best organized to fulfill their respective duties; and

WHEREAS, the Community Resources Department previously contained several unrelated divisions that fit better in other departments; and

WHEREAS, the Information Technology Division operates independently and requires a specialized expertise not held in any other department; and

WHEREAS, Information Technology is therefore better suited to being an independent Department, rather than a division of a department; and

WHEREAS, several other divisions of Community Resources have already been redistributed to other departments with similar duties and expertise; and

WHEREAS, the former Community Resources Department now consists only of Human Resources and Payroll and is more accurately described as a Human Resources Department; and

WHEREAS, the name of the Community Planning and Development Services Department has been updated to the Community Development Department.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City, that Sections 2.16.040 and 2.16.050 of the Rapid City Municipal Code are hereby repealed in their entirety as follows:

~~**2.16.040 Community Development Division Creation.**~~

~~—There is hereby created within the City Attorney's Office the Division of Community Development.~~

~~**2.16.050 Director of Community Development Duties.**~~

~~—A. The Director of Community Development shall be responsible for coordination with United States government agencies in relation to activities under the Community Development Act.~~

~~—B. The Director of Community Development shall carry on such other duties as may be assigned by the Mayor.~~

~~—C. The Director of Community Development shall coordinate all activities of the city involving community development funds for the city.~~

NOW THEREFORE, BE IT FURTHER ORDAINED by the City of Rapid City, that Chapter 2.24 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

CHAPTER 2.24: DEPARTMENT OF COMMUNITY HUMAN RESOURCES

2.24.010 Department created.

~~There is hereby created~~ The Department of ~~Community resources~~ Human Resources, previously created as the Human Resources Division, is hereby continued for the City of Rapid City.

2.24.020 Office of the Director created.

A. There is hereby created the Office of the Director of Community Human Resources. The Director shall be appointed by the Mayor with the approval of the Council and shall serve at the pleasure of the Mayor.

B. The duties of the Director of Community Human Resources shall be to:

- ~~1. Administer all functions assigned to the Community Resources Department;~~
- ~~2. Supervise all employees assigned to Community Resources Department and recommend to the Mayor and Council appropriate staffing levels throughout the Department;~~
- ~~3. Annually prepare and submit to the Mayor and Council a proposed budget for the Department;~~
- ~~4. Direct and coordinate the general services provided by various City Departments including and facilitating communications on complex issues;~~
- ~~5. Attend meetings of the City Council and sub-committees as well as various other meetings with public officials and community groups;~~
- ~~6. Review citywide policies, procedures and proposals and recommend revisions as needed;~~
- ~~7. Plan and direct the development and communication of information designed to keep the public informed of city programs including fact sheets, news releases and photographs;~~
- ~~8. Provide input to the Mayor, Council and other city boards and committees to ensure the continued efficient operation of the Department;~~
- ~~9. Handle special projects as directed by the Mayor and Council;~~
- ~~10. Hear appeals of Code Enforcement Division determinations, pursuant to § 2.24.065 of this code; and~~

1. Assemble and analyze data concerning problems, such as absenteeism and labor turnover;
2. Conduct surveys on living costs and wage rates;
3. Study current labor laws and regulations, arbitration decisions, collective bargaining contracts and other labor relations trends;
4. Formulate, interpret and recommend manpower policies concerning recruitment, selection, placement, wage and salary administration, collective bargaining, maintenance of personnel records and educational, health, safety and incentive programs;
5. Set up a system of performance reporting and employee rating;

6. Consult with legal staff to insure adherence to laws, regulations and contracts;
7. Plan and carry out policies relating to all phases of personnel activities;
8. Organize recruitment, selection and training procedures and direct activities of subordinates directly concerned;
9. Study personnel records for information such as educational background, work records and supervisor's reports to determine personnel suitable for promotion and transfers; and
10. Make personnel surveys and job classification studies upon request of the Common Council; and
11. Other duties as assigned.

~~2.24.030 Human Resources Division.~~

~~—The Human Resources Division, previously created as the Personnel Department, is continued as the Human Resources Division within the Community Resources Department. The Human Resources Division shall be directly responsible for the management of human resources of the city. The Human Resources Division shall perform other functions as assigned by the Director of Community Resources.~~

~~2.24.040 Duties of the Human Resources Division.~~

- ~~—The Human Resources Division shall:~~
- ~~—A. Assemble and analyze data concerning problems, such as absenteeism and labor turnover;~~
 - ~~—B. Conduct surveys on living costs and wage rates;~~
 - ~~—C. Study current labor laws and regulations, arbitration decisions, collective bargaining contracts and other labor relations trends;~~
 - ~~—D. Formulate, interpret and recommend manpower policies concerning recruitment, selection, placement, wage and salary administration, collective bargaining, maintenance of personnel records and educational, health, safety and incentive programs;~~
 - ~~—E. Set up a system of performance reporting and employee rating;~~
 - ~~—F. Consult with legal staff to insure adherence to laws, regulations and contracts;~~
 - ~~—G. Plan and carry out policies relating to all phases of personnel activities;~~
 - ~~—H. Organize recruitment, selection and training procedures and direct activities of subordinates directly concerned;~~
 - ~~—I. Study personnel records for information such as educational background, work records and supervisor's reports to determine personnel suitable for promotion and transfers; and~~
 - ~~—J. Make personnel surveys and job classification studies upon request of the Common Council.~~

~~2.24.050 Information Technology Division.~~

~~—The Information Technology Division is hereby created within the Community Resources Department and shall be directly responsible for the operation and maintenance of information technology systems throughout the city. The Information Technology Division shall perform other functions as assigned by the Director of Community Resources.~~

~~2.24.060 Code Enforcement Division.~~

~~—The Code Enforcement Division is hereby created within the Community Resources Department and shall be directly responsible for the enforcement of the Rapid City Municipal Code other than those functions assigned to the Police Department. The Code Enforcement Division shall perform other functions as assigned by the Director of Community Resources.~~

~~2.24.070 GIS Division.~~

~~—The GIS Division previously created is hereby continued within the Community Resources Department and shall be directly responsible for collecting geographic information and maintaining the geographic information system. The GIS Division shall perform other functions as assigned by the Director of Community Resources.~~

~~2.24.080 Community Development Division.~~

~~—The Community Development Division previously created is hereby continued within the Community Resources Department and shall be directly responsible for coordination with the United States Government agencies in relation to activities under the Community Development Act. The Community Development Division shall coordinate all activities of the city involving community development block grant funds. The Community Development Division shall perform other duties as assigned.~~

~~2.24.090 Community Investment Committee.~~

~~—A. *Community Investment Committee created.* The previously created Rapid City Subsidy Committee is hereby continued as the Community Investment Committee, also referred to herein as the Committee. The Committee shall make recommendations to the Common Council on the annual Community Development Block Grant sub-grantee selections, and the annual selection of non-profit grantee recipients of the general fund allocation made for that purpose.~~

~~—B. *Composition.* The Committee shall consist of 5 members, and 2 alternates each of whom shall be a resident of the city or of the city's extraterritorial platting jurisdiction as provided by SDCL Ch. 11-6. In addition, 1 of the members shall also be a member of the Strengthening Families Committee, and 1 of the members shall be associated with a foundation or other charitable funding source in the City of Rapid City. Members shall be appointed by the Mayor and confirmed by the Common Council.~~

~~—C. *Terms, quorum, majority vote to transact business.*~~

~~—1. Initially, the Common Council shall appoint 2 members and 1 alternate for terms of 3 years, 2 members and 1 alternate for terms of 2 years and 1 member for a term of 1 year. Thereafter, members and alternates shall serve 3-year terms. Members and alternates may be reappointed, but no member may serve on the Committee for more than 2 consecutive terms. Any vacancy on the Committee shall be filled for the unexpired term in the same manner as required for a regular appointment. The Mayor with the confirmation of the Common Council,~~

~~shall after public hearing have authority to remove any member of the Committee for cause which cause shall be stated in writing and made a part of the record of the hearing. Three members of the Committee shall constitute a quorum for the transaction of business. An affirmative vote of a majority of the members of the Committee shall be required to authorize any action of the Committee.~~

~~—2. The alternate members should attend every meeting as though they were regular members of the Committee. The alternate members can participate and vote at the meeting only when there is an absence at the meeting that results in less than 5 members being present. 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. The foregoing shall also apply should a regular member abstain from voting.~~

~~—D. Board to act in accordance with applicable federal law when reviewing Community Development Block Grant Program matters.~~

~~—1. When any item before the Committee pertains to the Community Development Block Grant Program, also referred to herein as the CDBG Program, any review, recommendation or other action taken by the Committee shall be done in conformance with any and all federal laws, rules, and regulations that pertain to the CDBG Program, which is run by the United States Department of Housing and Urban Development, also referred to herein as HUD.~~

~~—2. In keeping with the foregoing, the Board shall not take up for review, nor shall any action be taken on any item that pertains to the CDBG Program without the presence at the meeting of the city's HUD-designated CDBG Grant Administrator, or his or her designated delegate. In cases of absence from the meeting of the city's HUD-designated CDBG Grant Administrator, or his or her designated delegate, any and all CDBG Program items on the agenda shall be continued to the next regularly scheduled Committee meeting, or a special Committee meeting may be scheduled.~~

~~—E. Members not to hold elective office. The members of the Committee shall not hold any elective office in city government or be an employee of the city.~~

~~—F. Officers. At the first regular meeting of the Committee, and after that in January of each year, the Committee shall elect from its number a Chair and a Vice Chair. The Vice Chair shall act in the absence or disability of the Chair. In case the Chair or Vice Chair vacates their appointment, the Committee shall immediately select a replacement. The Community Development Manager or his or her designee shall serve as the Secretary to the Committee.~~

~~—G. Meetings. The Committee shall establish its regular meeting time and location, which shall be not less often than quarterly, and shall hold additional meetings as necessary to meet any CDBG Program deadlines that may be applicable to the Committee's duties. A meeting agenda shall be posted at least 24 hours in advance of the meeting at city hall.~~

~~—H. Bylaws. The Committee shall adopt bylaws and rules of procedure to govern its operation. No bylaw or rule of procedure shall be effective until approved by the Common Council. The~~

~~bylaws and rules of procedure may be amended at any time by the Committee with the approval of the Common Council.~~

~~—I. *Duties.* In addition to those duties set out in other sections of this code, the Committee shall have the following duties:~~

~~—1. Review annual sub-grantee applications submitted to the city-grantee under the CDBG Program, and make recommendations to the Common Council as to which sub-grantee applicants should be awarded CDBG Program funding;~~

~~—2. Upon receipt from HUD of actual CDBG Program funding awarded to the city-grantee for any fiscal year, review the same and make recommendations to the Common Council as to final award amounts to be appropriated to those sub-grantees the Common Council selected to receive CDBG Program awards for that fiscal year;~~

~~—3. Appoint and confirm the members of the Rapid City Strengthening Families Committee; and~~

~~—4. Receive and review quarterly reports from the Rapid City Strengthening Families Committee, and advise that body as the Community Investment Committee sees fit.~~

~~—J. *Bond.* The Common Council does not require a bond from Committee members for the faithful performance of a member's duties.~~

2.24.100 Rapid City Strengthening Families Committee.

A. *Rapid City Strengthening Families Committee recognized.* The previously created Rapid City Strengthening Families Task Force is hereby continued as the Rapid City Strengthening Families Committee. The Committee shall continue carrying out its purpose, which is to identify the high priority needs for strengthening families in the community, to work with agencies in the community to address those high priority needs, and to address the barriers and challenges that must be overcome in order to continue to address the community's high priority needs.

B. *Composition.* The Committee shall consist of 5 members. Members shall be appointed and confirmed by the Community Investment Committee. 1 member of the Committee shall also be a member of the Community Investment Committee. The Committee may appoint up to 2 alternates.

C. *Terms.* Initially, the Rapid City Strengthening Families Committee shall appoint 2 members to the Committee for terms of 3 years, 2 members for terms of 2 years, and 1 member for a term of 1 year. Thereafter, members shall serve 3-year terms. Members may be reappointed. Any vacancy on the Committee shall be filled for the unexpired term in the same manner as required for a regular appointment.

D. *Removal.* The Community Investment Committee shall after public hearing have authority to remove any member of the Rapid City Strengthening Families Committee for cause, which cause shall be stated in writing and made a part of the record of the hearing.

E. *Meetings.* The Committee shall establish its regular meeting time and location, which shall be not less often than bi-monthly, and may hold additional meetings as necessary. A meeting agenda shall be posted at least 24 hours in advance of the meeting at city hall.

F. *Report to Community Investment Committee.* The Committee shall present a quarterly report to the Community Investment Committee on an on-going basis.

NOW THEREFORE, BE IT FURTHER ORDAINED by the City of Rapid City, Section 2.44.060 of the Rapid City Municipal Code is hereby added to read in its entirety as follows:

2.44.060 GIS Division.

The GIS Division previously created is hereby continued within the Public Works Department and shall be directly responsible for collecting geographic information and maintaining the geographic information system. The GIS Division shall perform other functions as assigned by the Director of Public Works.

NOW THEREFORE, BE IT FURTHER ORDAINED by the City of Rapid City, that Chapter 2.47 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

**CHAPTER 2.47: DEPARTMENT OF COMMUNITY ~~PLANNING AND~~
DEVELOPMENT ~~SERVICES~~**

2.47.010 Department of Community ~~Planning and~~ Development ~~Services~~ created.

~~There is hereby created by the Rapid City Common Council a department to be known as the~~The Department of Community ~~Planning and~~Development ~~Services~~, previously created as the Department of Community Planning and Development Services, is hereby continued. ~~whose~~Its function shall be to coordinate all community planning and development activities, building permitting and associated inspections, ~~and geographic information systems for the city.~~

2.47.020 Director created.

A. There is hereby created the Office of the Director of the Community ~~Planning and~~ Development ~~Services~~ Department. The Director shall be appointed by the Mayor with approval by the Council and shall serve at the pleasure of the Mayor.

B. The duties of the Director of Community ~~Planning and~~ Development ~~Services~~ shall be as follows:

1. Administer all operations in the Community ~~Planning and~~ Development ~~Services~~ Department;
2. Supervision of all employees assigned to the Community ~~Planning and~~ Development ~~Services~~ Department and recommend to the Mayor and Council appropriate staffing levels throughout the Department;
3. Annually prepare and submit to the Mayor and Council a proposed budget for the Department;
4. Act as the liaison to the Planning Commission;
5. Act as the Executive Director of the Metropolitan Planning Organization;

6. Insure the efficient operation of the Community ~~Planning and~~ Development ~~Services~~ Department; and

7. Provide input to the Mayor, Council and other city boards and committees to insure the continued efficient operation of the Department while protecting the health, safety and welfare of the community.

2.47.030 Development Services Division.

The Development Services Division of the Community ~~Planning and~~ Development ~~Services~~ Department is hereby created and shall be responsible for building permit issuance, plans review and shall review and process development applications including, re-zoning requests, within the city and all subdivision applications within the city and within the city's extraterritorial jurisdiction as established by state law and city ordinance. The Development Services Division shall perform other functions as assigned by the Director of Community ~~Planning and~~ Development ~~Services~~.

2.47.040 Community Planning Division.

The Community Planning Division of the Community ~~Planning and~~ Development ~~Services~~ Department is hereby created and shall be responsible for future land use planning, annexation planning and implementation, transportation planning. The Community Planning Division shall perform other functions as assigned by the Director of Community ~~Planning and~~ Development ~~Services~~.

~~**2.47.050 GIS Division.**~~

~~The GIS Division is hereby created and shall be directly responsible for collecting geographic information and maintaining the geographic information system. The GIS Division shall perform other functions as assigned by the Director of Community Planning and Development Services.~~

~~**2.47.060 Reference to Growth Management.**~~

~~Whenever in this code, or any ordinance of the city, a reference is made to the Department of Growth Management or to any portion thereof, such reference shall be replaced with and in effect shall be a reference to the Department of Community Planning and Development Services.~~

2.47.070 Code Enforcement Division.

The Code Enforcement Division is hereby created within the Community Development Department and shall be directly responsible for the enforcement of the Rapid City Municipal Code other than those functions assigned to the Police Department. The Code Enforcement Division shall perform other functions as assigned by the Director of Community Development.

2.47.080 Community Development Block Grant Division.

There is hereby created within the Community Development Department the Community Development Block Grant Division. The Community Development Block Grant Division shall be responsible for coordination with United States government agencies in relation to activities under the Community Development Act, and other duties as assigned by the Director of the Community Development Department.

2.47.090 Community Investment Committee.

A. *Community Investment Committee created.* The previously created Rapid City Subsidy Committee is hereby continued as the Community Investment Committee, also referred to herein as the Committee. The Committee shall make recommendations to the Common Council on the annual Community Development Block Grant sub-grantee selections, and the annual selection of non-profit grantee recipients of the general fund allocation made for that purpose.

B. *Composition.* The Committee shall consist of 5 members, and 2 alternates each of whom shall be a resident of the city or of the city's extraterritorial platting jurisdiction as provided by SDCL Ch. 11-6. In addition, 1 of the members shall also be a member of the Strengthening Families Committee, and 1 of the members shall be associated with a foundation or other charitable funding source in the City of Rapid City. Members shall be appointed by the Mayor and confirmed by the Common Council.

C. *Terms, quorum, majority vote to transact business.*

1. Initially, the Common Council shall appoint 2 members and 1 alternate for terms of 3 years, 2 members and 1 alternate for terms of 2 years and 1 member for a term of 1 year. Thereafter, members and alternates shall serve 3-year terms. Members and alternates may be reappointed, but no member may serve on the Committee for more than 2 consecutive terms. Any vacancy on the Committee shall be filled for the unexpired term in the same manner as required for a regular appointment. The Mayor with the confirmation of the Common Council, shall after public hearing have authority to remove any member of the Committee for cause which cause shall be stated in writing and made a part of the record of the hearing. Three members of the Committee shall constitute a quorum for the transaction of business. An affirmative vote of a majority of the members of the Committee shall be required to authorize any action of the Committee.

2. The alternate members should attend every meeting as though they were regular members of the Committee. The alternate members can participate and vote at the meeting only when there is an absence at the meeting that results in less than 5 members being present. 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. The foregoing shall also apply should a regular member abstain from voting.

D. *Board to act in accordance with applicable federal law when reviewing Community Development Block Grant Program matters.*

1. When any item before the Committee pertains to the Community Development Block Grant Program, also referred to herein as the CDBG Program, any review, recommendation or other action taken by the Committee shall be done in conformance with any and all federal laws, rules, and regulations that pertain to the CDBG Program, which is run by the United States Department of Housing and Urban Development, also referred to herein as HUD.

2. In keeping with the foregoing, the Board shall not take up for review, nor shall any action be taken on any item that pertains to the CDBG Program without the presence at the meeting of

the city's HUD-designated CDBG Grant Administrator, or his or her designated delegate. In cases of absence from the meeting of the city's HUD-designated CDBG Grant Administrator, or his or her designated delegate, any and all CDBG Program items on the agenda shall be continued to the next regularly scheduled Committee meeting, or a special Committee meeting may be scheduled.

E. *Members not to hold elective office.* The members of the Committee shall not hold any elective office in city government or be an employee of the city.

F. *Officers.* At the first regular meeting of the Committee, and after that in January of each year, the Committee shall elect from its number a Chair and a Vice-Chair. The Vice-Chair shall act in the absence or disability of the Chair. In case the Chair or Vice-Chair vacates their appointment, the Committee shall immediately select a replacement. The Community Development Manager or his or her designee shall serve as the Secretary to the Committee.

G. *Meetings.* The Committee shall establish its regular meeting time and location, which shall be not less often than quarterly, and shall hold additional meetings as necessary to meet any CDBG Program deadlines that may be applicable to the Committee's duties. A meeting agenda shall be posted at least 24 hours in advance of the meeting at city hall.

H. *Bylaws.* The Committee shall adopt bylaws and rules of procedure to govern its operation. No bylaw or rule of procedure shall be effective until approved by the Common Council. The bylaws and rules of procedure may be amended at any time by the Committee with the approval of the Common Council.

I. *Duties.* In addition to those duties set out in other sections of this code, the Committee shall have the following duties:

1. Review annual sub-grantee applications submitted to the city-grantee under the CDBG Program, and make recommendations to the Common Council as to which sub-grantee applicants should be awarded CDBG Program funding;

2. Upon receipt from HUD of actual CDBG Program funding awarded to the city-grantee for any fiscal year, review the same and make recommendations to the Common Council as to final award amounts to be appropriated to those sub-grantees the Common Council selected to receive CDBG Program awards for that fiscal year;

3. Appoint and confirm the members of the Rapid City Strengthening Families Committee; and

4. Receive and review quarterly reports from the Rapid City Strengthening Families Committee, and advise that body as the Community Investment Committee sees fit.

J. *Bond.* The Common Council does not require a bond from Committee members for the faithful performance of a member's duties.

NOW THEREFORE, BE IT FURTHER ORDAINED by the City of Rapid City, that Chapter 2.52 of the Rapid City Municipal Code is hereby repealed in its entirety as follows:

~~CHAPTER 2.52: PERSONNEL DEPARTMENT~~

~~2.52.010 Created.~~

~~—There is created the Personnel Department for the city, which shall function and operate under the direct supervision and direction of the Mayor.~~

~~2.52.020 Director Appointment.~~

~~—The Personnel Director shall be appointed by the Mayor, with approval of the Common Council and shall serve at the pleasure of the Mayor.~~

~~2.52.030 Director Functions Designated.~~

~~—The functions of the Personnel Director shall be, among other things, as follows:~~

~~—A. Assemble and analyze data concerning problems, such as absenteeism and labor turnover;~~

~~—B. Conduct surveys on living costs and wage rates;~~

~~—C. Study current labor laws and regulations, arbitration decisions, collective bargaining contracts and other labor relations trends;~~

~~—D. Formulate, interpret and recommend manpower policies concerning recruitment, selection, placement, wage and salary administration, collective bargaining, maintenance of personnel records and educational, health, safety and incentive programs;~~

~~—E. Set up a system of performance reporting and employee rating;~~

~~—F. Consult with legal staff to insure adherence to laws, regulations and contracts;~~

~~—G. Plan and carry out policies relating to all phases of personnel activities;~~

~~—H. Organize recruitment, selection and training procedures and direct activities of subordinates directly concerned;~~

~~—I. Study personnel records for information such as educational background, work records and supervisor's reports to determine personnel suitable for promotion and transfers; and~~

~~—J. To make personnel surveys and job classification studies upon request of the Common Council.~~

~~2.52.040 Director Functions Inapplicability to elective or appointive officers.~~

~~—The functions herein prescribed shall not apply to elective or appointive officers. The term appointive officers, as used in this section, includes all appointive officers, specifically provided for by statute of the state; and all other officers appointed to fill appointive offices created by ordinance as authorized by the statutes of the state.~~

NOW THEREFORE, BE IT FURTHER ORDAINED by the City of Rapid City, that Chapter 2.54 of the Rapid City Municipal Code is hereby added to read in its entirety as follows:

CHAPTER 2.54: INFORMATION TECHNOLOGY DEPARTMENT

2.54.010 Information Technology Department created.

The Information Technology Department, previously created as the Information Technology Division, is hereby continued.

2.54.020 Director created.

A. There is hereby created the Office of the Director of the Information Technology Department. The Director shall be appointed by the Mayor with approval by the Council and shall serve at the pleasure of the Mayor.

B. The duties of the Director of the Information Technology Department shall be as follows:

1. Assume full management responsibility for the Department's services and activities;
2. Develop and maintain the City of Rapid City's information technology strategy in support of the organization's core objectives;
3. Prepare and implement policies, procedures, and standards that relate to information technology and the Department.
4. Direct, oversee, mentor, evaluate and motivate the staff of the Information Technology Department;
5. Create an annual budget for the Department and monitor the implementation and execution of the budget to ensure goals are met;
6. Respond to emergencies during the workday and after hours;
7. Research, develop and present new technologies and Department programs;
8. Present technologies to elected officials and justify or defend reasons for technology implementation;
9. Represent Department to executive staff, department directors, elected officials, and other groups, and outside agencies;
10. Developing partnerships and strong working relationships with other departments and work groups, and elected and appointed officials in order to attain excellent customer service as well as the City and the Department's goals; and
11. Other duties as assigned.

NOW THEREFORE, BE IT FURTHER ORDAINED by the City of Rapid City, that Section 2.95.010 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

2.95.010 Audit Committee.

A. There is hereby created an Audit Committee for the City of Rapid City.

1. The Audit Committee shall be comprised of 2 City Council members and 3 citizens-at-large residing within the corporate limits of Rapid City.

2. Prospective citizen members of the Committee shall submit an application to the City Council. The City Council will appoint a 3-member sub-committee to review the applications and forward names to the full City Council for approval.

3. The Council leadership will be responsible for forwarding the names of 2 City Council members to serve on the Audit Committee. Members of the Audit Committee shall be appointed by a majority vote of the City Council.

4. The city's Human Resources ~~Division~~ Department shall keep on file all applications for Committee membership which are received by the city and forward them to the 3-member sub-committee any time there is a vacancy on the Audit Committee.

5. Upon selection by the sub-committee to have their name forwarded to the City Council for approval, all citizen applicants shall be subject to a criminal and financial background check. As part of their application to be on the Audit Committee, all applicants shall specifically consent to a criminal and financial background check.

6. Members of the Audit Committee are part of an independent advisory committee of the City Council and are not officers of the city.

7. The citizen members of the Audit Committee shall have relevant experience and expertise in the field(s) of business, finance, operations of governmental or other large organizations, auditing and/or public accounting. The citizen members shall not be employed by the city or serve on any other city boards and/or committees.

8. Members of the Audit Committee must disclose any potential conflicts of interest prior to appointment, or after appointment as they arise. For new members of the Audit Committee the City Council can choose to waive any potential conflict it deems to be minor or insignificant. Audit Committee members will refrain from participating in any audit or issue in which they have a conflict of interest. If the Audit Committee member's conflict of interest will be an ongoing conflict, the Council may remove the member if it determines the ongoing conflict impedes the member's ability to fulfill their duties on the Committee.

9. The City Council members shall serve a 1-year term with no limitation on reappointment to the Committee.

10. The citizen Committee members shall serve 3-year terms with no limitation on reappointment to the Committee. The terms of the citizen Committee members will be staggered. At the first meeting, the Committee shall draw lots to determine which member receives the 1-year term, which receives the 2-year term, and which receives the 3-year term. After the terms established by lot have been served, all terms shall be for a period of 3 years.

11. For purposes of calculating the terms of the Committee members, the appointments shall be deemed to run from July 1 of the year they were appointed. For the purpose of calculating terms for the members of the first Audit Committee, the appointments shall be deemed to start on July 1, 2012.

12. Members of the Committee shall remain on the Committee until a successor has been appointed.

13. The City Council may remove any member of the Audit Committee prior to the expiration of their term by majority vote.

14. The Committee shall elect a chair and vice-chair during the first meeting to occur after July 1. The chair shall run the meetings. In the absence of the chair, the vice-chair shall run the

meetings. The Committee may adopt by-laws or other rules to govern the conduct of its meetings.

B. 1. The Audit Committee shall be authorized to hire an independent Chief Auditor, subject to the City Council's authority to approve staffing levels and appropriate funds. Within the limits of the funds which have been appropriated by the City Council, the Audit Committee may hire up to Step D of the city's compensation scale for the Chief Auditor position.

2. The Committee shall establish protocols for audits and annually adopt an audit plan for the ensuing year. The annual audit plan approved by the Committee shall be submitted to the City Council for its approval. The Committee will cause audit reports to be prepared on the items identified in the approved annual audit plan. The Committee shall review and comment on the audit reports and after reviewing them forward them to the Mayor and City Council.

3. Based on its review of the audit reports, the Committee may make formal recommendations to the Mayor and City Council for changes in the city's financial practices, contracts, operations, programs and/or services.

NOW THEREFORE, BE IT FURTHER ORDAINED by the City of Rapid City, that Section 3.26.030 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

3.26.030 Process.

A. An applicant for a tax increment financing district shall submit to the Community ~~Planning and Development~~ ~~Services~~ Department Director a completed application form, together with all information that may be required by the Rapid City Common Council. In addition, the applicant must pay to the City an application fee for each request for creation of a tax increment financing district or for any amendment to an existing tax increment financing district or project plan. The fee amount shall be set by City Council by resolution.

B. Upon receipt of a completed application, all the information required by the Rapid City Common Council, and payment of the application fee, the Community ~~Planning and Development~~ ~~Services~~ Department will schedule a meeting of the Tax Increment Financing District Project Review Committee within 30 days.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City, that Section 3.26.050 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

3.26.050 Recommendation.

A. The Tax Increment Financing District Project Review Committee shall either approve or deny the request. If the Committee approves the request, documents to implement the recommendation will be prepared by the staff and will be forwarded, along with the Committee's recommendation, to the Planning Commission for a public hearing and consideration.

B. If the Tax Increment Financing District Project Review Committee denies the request, the applicant may appeal the decision to the Planning Commission. Any appeal must be filed within 7 days of the action by the Tax Increment Financing District Project Review Committee. The

appeal must be in writing, directed to the Community ~~Planning and~~ Development ~~Services~~ Director indicating the applicant's intention to appeal. The appeal shall be presented to the Planning Commission at its next regular meeting that is at least 7 days following the date the appeal is received by the ~~Growth Management~~ Community ~~Planning and~~ Development ~~Services~~ Director. The Planning Commission may uphold the denial of the application by the Tax Increment Financing District Project Review Committee or may direct that documents to implement the Committee's recommendation be prepared and that the statutory notifications be made for a public hearing and consideration by the Planning Commission.

NOW THEREFORE, BE IT FURTHER ORDAINED by the City of Rapid City, that Section 5.64.020 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

5.64.020 Number of video lottery machine placements authorized.

Not more than 1 authorization for a video lottery machine placement as provided in SDCL § 42-7A-64 will be granted for each 843 of population of the city as determined each January 1, by the city's ~~Planning~~ ~~Community Development~~ Department . No establishment authorized for a video lottery machine placement may be denied authorization in subsequent years solely by reason of any limitations of the number of authorizations under the provisions of this section. The quotas established in this section do not apply to other licenses issued pursuant to SDCL § 35-4-2.

NOW THEREFORE, BE IT FURTHER ORDAINED by the City of Rapid City, that Section 8.28.060 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

8.28.060 Abatement by city–Cost–Assessment.

The Community ~~Resources~~ ~~Development~~ Director or his or her designee shall cause an account to be kept against each lot upon which work is done pursuant to § [8.28.040](#) and have the same certified to the Finance Officer or his or her designee upon the completion of the work. The Finance Officer shall thereupon certify the account, showing the amount, the description of the property, and the owner thereof, to the City Assessor, who shall thereupon add the assessment to the general assessment against the property and certify the special assessment, together with the regular assessment, to the County Auditor to be collected as municipal taxes for general purposes. The assessment shall be subject to review and equalization the same as assessments for taxes for general purposes.

NOW THEREFORE, BE IT FURTHER ORDAINED by the City of Rapid City, that Section 8.34.080 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

8.34.080 Requirements for controlling fugitive emissions using reasonably available control technology.

Any construction site, parking and/or outdoor storage area, or continuous operation as defined by this chapter, or political subdivision responsible for maintaining public roads, shall provide

for reasonably available control technology to prevent fugitive emissions from becoming airborne. If the reasonably available control technology selected proves to be insufficient for controlling fugitive emissions, additional measures shall be required. The controls may include, but not be limited to, the following practices:

A. For activity involving the removal or alteration of natural or pre-existing ground cover including, but not limited to road construction, land clearing, excavating, grading, earthmoving, dredging or demolition:

1. Use of water to control fugitive emissions from disturbed areas or other work activities;
2. Applying chemical stabilizer or dust palliative;
3. Minimization of area disturbed;
4. Reclamation of disturbed areas as soon as possible during the planting season, if the completion of grading and/or construction activities fall outside of a planting season reclamation shall be completed at the start of the next planting season;
5. Vehicular speed limitation;
6. Routine cleaning of paved areas with a vacuum sweeper, as necessary, to remove any materials deposited through tracking or erosion that may become reentrained. Any other method of cleaning paved areas shall be submitted in writing to the Air Quality Division for approval prior to the start of cleaning;
7. Maintenance of a trackout control device at all site access points to prevent tracking onto the public rights-of-way, private driveways or parking areas where fugitive dust may become reentrained;
8. Minimization of dust from open trucks or onsite storage piles; and/or
9. Installation of plastic fences to reduce wind erosion.

B. For paved and unpaved roads, alleyways and storage areas, construction, altering, yearly street or highway maintenance and repair of road surfaces:

1. Use of water to control fugitive emissions from disturbed areas or other work activities;
2. Applying chemical stabilizer or dust palliative;
3. Vehicular speed limitation;
4. Movement of materials by enclosed vehicles or covered conveyance systems;
5. Routine cleaning of paved areas by sweeping (mechanical with water or vacuum) to remove materials that may become reentrained;
6. Water flushing (when safety is not jeopardized); and/or
7. Wetting ahead of open sweepers on rural roads.

C. For paved parking areas:

1. Paved parking areas shall be cleaned either by sweeping (mechanical with water or vacuum sweeper), water flushing (when safety is not jeopardized), or by any means approved by the Community ~~Planning and~~ Development ~~Services~~ Director or designee.

D. For unpaved parking or outdoor storage areas:

1. The unpaved parking or outdoor storage areas shall be maintained to reduce dust reentrainment by methods such as:

- a. Wetting down;
- b. Applying chemical stabilizer or dust palliative; and/or
- c. Vehicular speed limitation.

2. The most appropriate control measures shall be used to prevent erosion or trackout from an unpaved parking or outdoor storage area to paved public rights-of-way where the material can be readily reentrained.

E. For material screening, handling, storage, processing or transportation:

1. Installation of baghouses and other emission control and collection systems;
2. Enclosed conveyance systems;
3. Enclosing, covering or applying dust suppressants to storage piles where practical;
4. Moisturizing or chemically treating the material during processing;
5. Cleaning of paved areas; and/or
6. Movement of materials by enclosed vehicle or another method that is equally effective in reducing the emissions.

F. For erosion and sediment control:

1. Where a construction site or part thereof will become inactive for a period of 21 days or longer, long-term stabilization shall be implemented within 14 days following the cessation of active operations.

2. Controls may include:

- a. Installing wind screens or equivalent wind speed reduction devices to control wind erosion;
- b. Chemical stabilization;
- c. Covering with a non-erodible material; and/or
- d. Runoff control barriers, such as silt fences and dams.

G. For landscaping and revegetation:

1. Landscaping and revegetation shall be completed as soon as grading and/or construction has been completed.

2. When landscaping and/or revegetation cannot be completed immediately due to weather, the exposed areas shall be temporarily stabilized and final landscaping and/or revegetation shall be completed in the next planting season.

3. If necessary, a written reclamation plan may be required by the Air Quality Division.

NOW THEREFORE, BE IT FURTHER ORDAINED by the City of Rapid City, that Section 8.34.130 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

8.34.130 Additional fee for failing to obtain permit.

Failure to submit the application to obtain or renew a permit and/or pay the permitting fee prior to engaging in activities regulated by this chapter will result in an additional fee being added to the permit fee for each full week that the operation continues without a permit, and may further subject the person in violation to the penalty and injunctive provisions contained herein. Fees for this penalty shall be set by resolution of the Common Council. The first penalty fee will be assessed after a 7-day grace period and additional fees will be assessed every week thereafter that a violation of this chapter continues. The Community ~~Planning and~~ Development ~~Services~~ Director or designee shall have the authority to waive all or part of the fee increase.

NOW THEREFORE, BE IT FURTHER ORDAINED by the City of Rapid City, that Section 8.34.180 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

8.34.180 Authorization to inspect.

By obtaining a permit under this chapter the permit holder consents to allow any duly authorized officer, employee or representative of any agency responsible for enforcing this chapter to be allowed on the property for the purpose of inspecting the site to determine if the permit holder is in compliance with this chapter, the terms of their permit or with any compliance plan that applies to their operation. The officer shall notify the permit holder of their intent to inspect the property and after obtaining an escort and complying with safety regulations, may enter and inspect any portion of the property, premises or place in which the officer has reasonable grounds to believe is a source of air pollution or in which the officer has reasonable grounds to believe that the provisions of this chapter are not being followed. The entry and inspection may be conducted at any reasonable time for the purpose of investigating the pollution or of ascertaining the state of compliance with the ordinance. If any permit holder refuses entry to the officer to any portion of the site covered by a permit issued pursuant to this chapter, such permit will be immediately suspended upon the order of the Director of Community ~~Planning and~~ Development ~~Services~~ or designee. All work on the site must cease until such time as the permit holder allows the inspection of the property and the officer is able to determine that the permit holder is in compliance with the provisions of this chapter.

NOW THEREFORE, BE IT FURTHER ORDAINED by the City of Rapid City, that Section 8.34.190 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

8.34.190 Notice of violation.

A. If the Air Quality Division has reason to believe that a violation of any provision of this chapter has occurred, the Air Quality Division may cause a written notice of violation to be given in the manner prescribed in § [8.34.190C](#). upon the person responsible for the violation as specified in this code. The notice shall specify:

1. The provision(s) of this chapter which are alleged to have been violated; and
2. The facts constituting the alleged violation.

B. The notice of violation shall include an order that necessary corrective action be taken within a reasonable time period. If the corrective action contained in the notice of violation is not completed within the prescribed time period or the alleged violator has not appealed pursuant to § [8.34.240](#), the Director of Community ~~Planning and~~ Development ~~Services~~ or designee may revoke any permit that has been issued pursuant to this chapter until such time as the violation has been corrected.

C. Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
2. Sent by certified or first-class mail;
3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure or area affected by such notice. Notice shall be deemed to be properly served as of the date of posting.

NOW THEREFORE, BE IT FURTHER ORDAINED by the City of Rapid City, that Section 8.34.210 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

8.34.210 Consent agreement.

Nothing in this chapter shall prevent the Air Quality Division from notifying an alleged violator of violations and negotiating a consent agreement. Any consent agreement shall be approved by the Community ~~Planning and~~ Development ~~Services~~ Director or designee.

NOW THEREFORE, BE IT FURTHER ORDAINED by the City of Rapid City, that Section 8.34.240 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

8.34.240 Air Quality Board appeal procedures.

A. Any person who wishes to contest a notice of violation must request a hearing before the Air Quality Board. The request for a hearing before the Air Quality Board shall be submitted in writing to the Director of Community ~~Planning and~~ Development ~~Services~~ or designee within 15 days of receiving the notice of violation or it becomes final. In addition to requesting a hearing, the written request should contain a brief statement of the grounds for the appeal and the relief that the applicant is requesting. A petition to contest a notice of violation to the Air Quality Board shall be heard at the Board's next regularly scheduled meeting, or at a special meeting properly noticed.

B. At the hearing, the Air Quality Board will provide an opportunity for the applicant and staff to address the alleged violation and order for corrective action. After considering the information presented, the Air Quality Board may uphold the determination of staff that there has been a violation of the ordinance or may find that there has been no violation of the ordinance. If the Air Quality Board determines that there has been a violation, they may uphold or modify the corrective action(s) and/or timeline(s) contained in the notice of violation. The Air Quality Board may also order that any permits issued under this chapter be suspended or revoked for a period of time the Air Quality Board deems reasonable.

C. The alleged violator may appeal any decision or order of the Air Quality Board to the Common Council. The alleged violator must submit a written request to appeal the Board's decision to the City Finance Office within 15 days of the decision being appealed from. The Finance Office will place the appeal on the agenda of the next regularly scheduled Council meeting.

NOW THEREFORE, BE IT FURTHER ORDAINED by the City of Rapid City, that Section 8.34.280 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

8.34.280 Recovery of costs incurred.

All costs and expenses incurred by the Air Quality Division, the City Attorney or other city staff in carrying out the provisions of this chapter may be billed to the property owner. If not paid in full within 30 days, any permit issued pursuant to this chapter may be suspended by the Director of Community ~~Planning and~~ Development ~~Services~~ or designee until such time as the balance is paid in full. The property owner may appeal any bill received pursuant to § [8.34.240](#).

NOW THEREFORE, BE IT FURTHER ORDAINED by the City of Rapid City, that Section 12.12.030 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

12.12.030 Sidewalk cafés.

Notwithstanding any other provision of this chapter, the City of Rapid City may authorize businesses to operate sidewalk cafés upon public sidewalks as hereinafter described, subject to the conditions hereinafter set forth. A *SIDEWALK CAFÉ* is an outdoor area located in the

public right-of-way which is operated and maintained by an establishment, coffeehouse, tea shop, restaurant or bar.

A. *Approved sidewalk café area.* The area in which sidewalk cafés may be permitted is the area within the following boundary: Commencing from the intersection of East Omaha and East Boulevard, west to West Boulevard, south to the alley between Kansas City Street and Quincy Street, east to Ninth Street, south to Quincy Street, east to 4th Street, north to the alley between Quincy Street and Kansas City Street, east to 1st Street, north to Kansas City Street, east to East Boulevard, and north to the point of origin.

B. *Application Procedure.* An application for a sidewalk café permit shall be processed according to the following procedures:

1. The Director of the Community ~~Planning and~~ Development ~~Services~~ Department shall have the authority to issue sidewalk café permits.

2. An application for a sidewalk café shall be filed with the Community ~~Planning and~~ Development ~~Services~~ Department and be approved or denied within 14 business days by the Director.

3. Application for a sidewalk café permit is limited to an individual who holds a valid business license for the establishment issued pursuant to [Chapter 5.04](#) of this code.

4. Processing fees for the application shall be set by City Council by resolution.

C. *Application contents.* An application for a sidewalk café permit shall include the following items:

1. Property owner and leaseholder, as applicable, name, address and contact information;

2. A narrative description of the type of items to be sold and written operations plan;

3. A site plan drawn to scale on an 8-1/2 inch by 11 inch sheet of paper indicating that the sidewalk café complies with subsection D. below.

D. *Sidewalk café site requirements.* Sidewalk café permits shall comply with the following site requirements:

1. The location of the sidewalk café must be directly in front of the business operating the café and may not extend beyond the side property lines.

2. Sidewalk cafés are permitted only on sidewalks with a minimum width of 10 feet from the property line to the curb face. Sidewalk cafés must maintain a clear pedestrian path of at least 5 feet at all times. This pathway must be free of any obstructions such as trees, parking meters, and utilities or other facilities such as telephone poles, fire hydrants, fire protection appurtenances, parking meters, mailboxes, or signs located in the public right-of-way.

3. All applicable sight triangle requirements shall be met at all times by sidewalk cafés.

4. No café elements may be located within 2 feet of the curb face.

5. Physical barricades are required if alcoholic beverages are sold at the sidewalk café and may not exceed 4 feet in height. Elements of the sidewalk café may not be attached permanently to the sidewalk of public right-of-way. The property owner is responsible for the restoration of the sidewalk of public right-of-way if any damage is caused by the sidewalk café. Bolting a barrier to the sidewalk is not considered permanent as long as the method of bolting allows the barrier and the bolts to be readily removed.

6. Sidewalk cafés must maintain at least 1 opening for ingress and egress at all times and shall comply with the accessibility requirements of the currently adopted Building Code.

7. Umbrellas must be at least 7 feet above the sidewalk when open. Umbrellas must be designed to be secure during windy conditions.

8. Any signs authorized hereunder shall be of a size, dimension, orientation and placement as to be directed toward the attention of pedestrians within 50 feet thereof and, under no circumstances, directed toward the attention of persons traveling in motor vehicles. The signs shall not exceed 42 inches in height above the sidewalk or more than 24 inches in width on any face or no more than 2 faces total. Any such sign shall contain no off-premises advertising, and shall display no logo or advertising copy other than for the primary business of the occupant of the abutting property.

9. Lighting for sidewalk cafés is subject to approval during the permitting process. Such lighting shall not cause a glare to passing motorists or pedestrians. Tabletop lighting may include candles and battery-operated fixtures.

10. Sidewalk cafés must adhere to size, design, and other applicable requirements of the City Municipal Code as adopted or amended.

E. *General requirements.* In addition to the specific sidewalk café site requirements the following general requirements shall apply:

1. All elements associated with sidewalk cafés, including but not limited to tables, chairs, umbrellas, temporary barricades, heaters and awnings must be of quality design, workmanship, and materials to ensure safety and convenience to patrons. All such elements will be reviewed as part of the permit process.

2. Sidewalk cafés are prohibited from playing amplified music, whether live or recorded.

3. Vending machines, carts, or other objects for sale are prohibited from inclusion in a sidewalk café. Nothing in this section shall preclude the city from authorizing vending carts or similar uses outside of sidewalk cafés.

4. All services provided to sidewalk café patrons as well as all patron activity must occur within the designated sidewalk café area. No alcoholic beverages may be stored or mixed in the sidewalk café.

5. The permit holder is responsible for proper supervision of the sidewalk café in order to ensure the requirements of this section are met.

6. Patrons and employees must wear proper attire including shoes and shirts at all times.

7. All areas within and surrounding a sidewalk café must be maintained in a clean, neat, and sanitary condition. All cleaning must be performed in accordance with city regulations.

8. All permit holders shall be required to abide by all federal, state, and local laws.

F. *Certificate of insurance.* Every sidewalk café permit holder shall furnish a certificate of insurance proving commercial liability insurance coverage of at least \$2,000,000 aggregate and \$1,000,000 per occurrence for bodily injury, death, disability, and property damage liability. The City of Rapid City shall be named as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the operation of a sidewalk café. In the event that the insurance is cancelled, the permit holder has 24 hours to reinstate the insurance or the permit shall be revoked.

G. *Exceptions.* An exception may be granted by the Planning Commission to any of the provisions of the design criteria set forth in subsection D. above, and the decision of the Planning Commission is appealable to the City Council. Any person or party has the right to appeal the decision of the Planning Commission regarding an exception for a sidewalk café permit. Appeals must be made in writing and submitted to the Planning Commission 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 within 30 calendar days.

H. *Permit review.* The Planning Commission shall have the power to review any permit issued hereunder at any time.

I. *Permit—Revocation or suspension.*

1. The Planning Commission, in its discretion, may revoke or suspend any permit for reasons including, but not limited to the following: failure to maintain the standards required for the sidewalk café; revocation or suspension of the required business license issued under Chapter 5.04; violation of any applicable federal, state or local statute, ordinance, rule or regulation; or violation of any provision of this Rapid City Municipal Code section.

2. The penalty of permit revocation shall continue for a period of 1 year from the date the revocation became effective. Once the period of revocation has ended a former permit holder upon which the penalty of permit revocation has been imposed may apply for a new permit, subject to the requirements of this section.

3. The penalty of permit suspension shall continue for a period not to exceed 30 days from the date the suspension became effective. Once the period of suspension has ended, the Planning Commission may, at its discretion, require re-application for any suspended permit.

4. The penalties of permit revocation or suspension shall be imposed only after the permit holder has had notice and an opportunity to be heard.

5. The notice of intent to impose penalty shall be sent by first class mail to the permit holder's address of record on file with the Finance Office. The notice of intent to impose penalty shall be mailed no later than 14 days prior to the hearing date.

6. The penalty hearing will take place at a regular or special Planning Commission meeting, at the discretion of the Planning Commission, provided the notice of intent is mailed no later than 14 days prior to the meeting date. A vote of a majority of Planning Commission members present shall be required to impose penalty.

7. The Planning Commission shall provide written notice of its decision, to be sent by first class mail to the permit holder's address of record on file with the Finance Office. The effective date of any penalty imposed shall be 14 days from the date of mailing of the Planning Commission's written notice of decision.

8. Should any applicant or permit holder be aggrieved by a decision of the Planning Commission, he or she may, within 10 days, provide written notice to the Director of Community ~~Planning and~~ Development ~~Services~~ of his or her intent to appeal the decision to the Council. After the aggrieved applicant or permit holder has provided written notice, he or she will have a hearing before the Council. The Council may affirm, modify or reverse the action of the Planning Commission. All decisions of the Council shall be final.

9. Any permit holder subject to investigation by the Planning Commission shall cooperate fully with the Planning Commission. Failure to cooperate fully with the Planning Commission is a basis for permit revocation or suspension.

J. *Criminal penalty.* Any person violating this section shall be subject to the general penalty provision of § [1.12.010](#).

NOW THEREFORE, BE IT FURTHER ORDAINED by the City of Rapid City, that Section 12.12.040 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

12.12.040 Sidewalk vendors.

Notwithstanding any other provision of this chapter, the City of Rapid City may authorize sidewalk vendors to operate upon public sidewalks as hereinafter described, subject to the conditions hereinafter set forth.

A. *Approved vending cart area and vending cart sites.* The City Council has approved a vending cart area and individual vending cart sites located within the Rapid City Central Business District. Additional vending cart sites may be approved by the Director of the Community ~~Planning and~~ Development ~~Services~~ Department.

1. The vending cart area shall be an area with a boundary commencing from the intersection of East Omaha and East Boulevard, west to West Boulevard, south to the alley between Kansas City Street and Quincy Street, east to Ninth Street, south to Quincy Street, east to 4th Street,

north to the alley between Quincy Street and Kansas City Street, east to 1st Street, north to Kansas City Street, east to East Boulevard, and north to the point of origin.

2. Within the vending cart area the city has approved vending cart sites that have adequate sidewalk width and pedestrian traffic flow to minimize potential conflicts with existing businesses. Maps of approved vending cart sites are available at the Community ~~Planning and~~ Development ~~Services~~ Department. Additional vending cart sites may be approved by the Director of the Department of Community ~~Planning and~~ Development ~~Services~~ Department, provided the applicant can demonstrate through the application process that the proposed vending cart site complies with the application procedures and requirements defined in this section.

B. *Permitted vending products and goods.* The City of Rapid City permits the following types of goods for street vending in approved locations:

1. Cut flowers;
2. Food;
3. Non-alcoholic beverages; and
4. Current newspapers and magazine periodicals.

C. *Application procedure.* An individual applicant is allowed to have no more than 4 sidewalk vending cart sites during a calendar year and must file an initial application and receive approval by the Community ~~Planning and~~ Development ~~Services~~ Department for the specific location(s) prior to operation. The initial application is valid from the date the application is approved and expires on December 31 of the same year. Following the initial permit term under this section, an applicant on an annual basis will have the first right to renew application(s) for each sidewalk vending cart site permit held by that applicant. An applicant who held a permit prior to the enactment of this section shall have the first right to renew as to no more than 4 sidewalk vending cart sites held by the applicant. The following shall apply to annual first right to renew applications:

1. The Director of the Community ~~Planning and~~ Development ~~Services~~ Department shall have the authority to issue sidewalk vendor permits.

2. An application for a sidewalk vendor permit shall be filed with the Community ~~Planning and~~ Development ~~Services~~ Department and be approved or denied within 14 business days by the Director.

3. In order to maintain the right-to-operate at a specific location, an application to renew the permit shall be filed by the last business day in January of the following year. Failure to file an application for renewal by the last business day in January will allow the vending cart site to become available to a different applicant. The date and time that an application is filed shall be noted on the application form by the Community ~~Planning and~~ Development ~~Services~~ Department.

4. Application for sidewalk vending cart site permit(s) is limited to an individual who holds a valid, current sidewalk vending license, issued pursuant to [Chapter 5.56](#) of this code.

5. Processing fees for the initial application and annual application renewal shall be set by City Council by resolution.

D. *Application contents.* Application for a sidewalk vendor permit shall include the following items:

1. Vendor name, address and contact information;

2. A narrative description of the type of items to be sold and written operations plan including but not limited to, a description of any mobile container or device to be used for transport or to display approved items or services.

3. A site plan drawn to scale on an 8-1/2 inch by 11 inch sheet of paper indicating that the vending cart and other items permitted on the vendor cart site comply with subsection E. below.

4. A detailed scale drawing, picture or diagram and material specifications of the device or vending cart to be used including manufacturers identification number.

5. A copy of the permit issued by the State Department of Health for vendors who sell food and beverage.

6. A written letter of consent from an adjacent restaurant owner where applicable.

7. A valid sidewalk vendor license approved by the Rapid City Council per [Chapter 5.56](#).

E. *Vendor cart site requirements.* Sidewalk vendors conducting business on the sidewalks of the City of Rapid City with a valid permit issued under this chapter must comply with the following site requirements:

1. Vending units must be self-contained and portable, and no longer than 4 feet wide by 6-1/2 feet high and 6 feet long. A maximum of 60 square feet of space can be occupied by the vending unit;

2. No sidewalk vendor may conduct business on a sidewalk in any of the following places:

a. Within 10 feet of the intersection of the sidewalk with any other sidewalk;

b. Within 10 feet of any handicapped parking space, or access ramp;

c. Within 15 feet of a fire hydrant;

d. Within 15 feet of an entrance to a building;

e. Within 2 feet of a curb face; and

f. Within the site distance triangle area defined by Rapid City Municipal Code;

3. Sidewalk vendors are permitted only on sidewalks with a minimum width of 10 feet from the property line to the curb face. Sidewalk vendors must maintain a clear pedestrian path of at

least 5 feet at all times. This pathway must be free of any obstructions such as trees, parking meters, and utilities or other facilities such as telephone poles, fire hydrants, fire protection appurtenances, parking meters, mailboxes, or signs located in the public right-of-way;

4. No more than 3 ice chests, coolers or other accessory containers may be utilized. The containers must be placed on or immediately next to the vending unit, and not in the way of pedestrian or vehicular traffic. Coolers must be hard-plastic or hard metal finish, no Styrofoam, and must be located within the 60 square foot vending unit area;

5. Vendors shall provide a receptacle for all waste material generated by the said vending operations and remove all paper, cardboard, metal, plastic or other litter in any form (including cigarette butts) from the vending cart site and surrounding sidewalk area within 30 minutes of the end of daily operations. Litter may not be placed in city trash receptacles;

6. Any signs authorized hereunder shall be of a size, dimension, orientation and placement as to be directed toward the attention of pedestrians within 50 feet thereof and, under no circumstances, directed toward the attention of persons traveling in motor vehicles. The signs shall not exceed 42 inches in height above the sidewalk or more than 24 inches in width on any face or no more than 2 faces total. Any such sign shall contain no off-premises advertising, and shall display no logo or advertising copy other than for the primary business of the permittee;

7. Umbrellas and canopies must be designed to be secure during windy conditions. Umbrellas and canopies must be at least 7 feet above the sidewalk when open; and

8. Lighting for sidewalk vendors is subject to approval during the permitting process. Such lighting shall not cause a glare to passing motorists or pedestrians. Lighting may include battery-operated fixtures.

F. *General requirements.* All goods being sold by sidewalk vendors shall be located within the bounds of the site plan area approved as part of the permit issued by the city and be attended by the permittee at all times. In addition to the specific vendor cart site requirements the following general requirements shall apply to vendor cart operations:

1. Street vending facilities shall be removed from the public right-of-way when not in use. Sidewalk vendors are only allowed to operate between the hours of 6:00 a.m. and 2:30 a.m. All vending units shall be removed from the public right-of-way during non-operational hours;

2. Sidewalk vendors shall display in a prominent and visible manner the license issued by the City of Rapid City in accordance with [Chapter 5.56](#);

3. No permanent hardware shall be affixed to the sidewalk or adjacent buildings. The permittee is responsible for the restoration of the sidewalk or public right-of-way if any damage is caused by the vendor or any element of the vending unit;

4. Mobile electric generators are prohibited; however, propane heating devices may be used for cooking, heating, or warming of food and must be attached to the vending unit. The Rapid City Fire Department shall inspect and approve any vending unit to assure the conformance of all

cooking or heating apparatus with the provisions of the currently adopted building and fire codes;

5. A vendor cannot receive electricity or water from any adjoining buildings by means of wires, hoses, or other connections;

6. A single vending unit can be approved for up to 4 approved vending locations and can be moved from 1 approved location to another approved location;

7. No sidewalk vendor shall solicit, berate or make any unreasonably loud noise of any kind for the purpose of advertising or attracting attention to his or her wares. No audible amplified music or sound shall be permitted;

8. The vendor shall not cause congestion or blocking of pedestrian traffic on the sidewalk; shall involve a short transaction period to complete the sale or render the service; shall not cause undue noise or offensive odors; and shall sell items that can be easily carried by pedestrians;

9. All areas within and surrounding a sidewalk vending unit must be maintained in a clean, neat, and sanitary condition. All cleaning must be performed in accordance with city regulations;

10. All permit holders shall be required to abide by all federal, state, and local laws, rules, and regulations.

G. *Restriction on subleasing.* Subleasing, transfer or assignment of an approved vendor permit is not allowed. The permit holder may hire employees to operate on up to 4 approved vending cart sites. The permittee is responsible for proper supervision of employees hired to operate at an approved vending cart site in order to ensure the requirements of this section are met.

H. *Restriction on adjacency to restaurants.* Vending carts shall not be located along the linear street frontage of any restaurant without the written consent of the restaurant owner. Written consent shall be in the form of a letter from the restaurant owner or designee and provided with the initial application and annually with an application for renewal. The consent letter shall include the days and hours that a restaurant owner will allow a vendor to operate in front of the restaurant. Should a restaurant become operational in a commercial space that was formally not a restaurant adjacent to an approved vendor cart site, the written consent will not be required until such time as the next renewal application is made.

I. *Certificate of insurance.* Every sidewalk vendor permit holder shall furnish a certificate of insurance proving commercial liability insurance coverage of at least \$2,000,000 aggregate and \$1,000,000 per occurrence for bodily injury, death, disability, and property damage liability. The City of Rapid City shall be named as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the operation of a sidewalk vendor. In the event that the insurance is cancelled, the permit holder has 24 hours to reinstate the insurance or the permit shall be revoked.

J. *Exceptions.* An exception may be granted by the Planning Commission to any of the provisions of the design criteria set forth in subsection E., and the decision of the Planning Commission is appealable to the Common Council. Any person or party has the right to appeal the decision of the Planning Commission regarding an exception for a sidewalk vendor permit. Appeals must be made in writing and submitted to the Planning Commission 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 within 30 calendar days.

K. *Permit review.* The Planning Commission shall have the power to review any permit issued hereunder at any time.

L. *Permit—Revocation or suspension.*

1. The Planning Commission, in its discretion, may revoke or suspend any permit(s) for reasons including, but not limited to the following: failure to maintain the standards required for the initial permit and annual permit renewal; sidewalk vending outside of the location(s) for which a sidewalk vendor licensee holds a permit(s); expiration, revocation or suspension of the required sidewalk vendor license issued under [Chapter 5.56](#); violation of any applicable federal, state or local statute, ordinance, rule or regulation; or violation of any provision of this Rapid City Municipal Code section.

a. The penalty of permit revocation shall continue for a period of 1 year from the date the revocation became effective. Once the period of revocation has ended a former permit holder upon which the penalty of permit revocation has been imposed may apply for a new permit, subject to the requirements of this section. Permit revocation shall result in the loss of the specific location renewal process outlined in subsection C.3.

b. The penalty of permit suspension shall continue for a period not to exceed 30 days from the date the suspension became effective. Once the period of suspension has ended, the Planning Commission may, at its discretion, require re-application for any suspended permit(s). Permit suspension shall not result in the loss of the specific location renewal process outlined in subsection C.3.

2. The penalties of permit revocation or suspension shall be imposed only after the permit holder has had notice and an opportunity to be heard.

a. The notice of intent to impose penalty shall be sent by first class mail to the permit holder's address of record on file with the Finance Office. The notice of intent to impose penalty shall be mailed no later than 14 days prior to the hearing date.

b. The penalty hearing will take place at a regular or special Planning Commission meeting, at the discretion of the Planning Commission, provided the notice of intent is mailed no later than 14 days prior to the meeting date. A vote of a majority of Planning Commission members present shall be required to impose penalty.

c. The Planning Commission shall provide written notice of its decision, to be sent by first class mail to the permit holder's address of record on file with the Finance Office. The effective date of any penalty imposed shall be 14 days from the date of mailing of the Planning Commission's written notice of decision.

3. Should any applicant or permit holder be aggrieved by a decision of the Planning Commission, he or she may, within 10 days, provide written notice to the Director of Community ~~Planning and~~ Development ~~Services~~ of his or her intent to appeal the decision to the Council. After the aggrieved applicant or permit holder has provided written notice, he or she will have a hearing before the Council. The Council may affirm, modify or reverse the action of the Planning Commission. All decisions of the Council shall be final.

4. Any permit holder subject to investigation by the Planning Commission shall cooperate fully with the Planning Commission. Failure to cooperate fully with the Planning Commission is a basis for permit revocation or suspension.

M. *Criminal penalty.* Any person violating this section shall be subject to the general penalty provision of § [1.12.010](#).

NOW THEREFORE, BE IT FURTHER ORDAINED by the City of Rapid City, that Section 12.32.070 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

12.32.070 Urban Forestry Board—Duties.

A. It shall be the responsibility of the Board to review and make recommendations on city tree plans developed by the city's ~~Planning and~~ Community Development Department and/or the city's Parks Department.

B. The Board, when requested by the Common Council or the city's Parks Department shall consider, investigate and make findings, reports and recommendations upon any special matter or question coming within the scope of its work.

NOW THEREFORE, BE IT FURTHER ORDAINED by the City of Rapid City, that Section 15.04.030 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

15.04.030 Authority of Building Official.

A. Pursuant to § [2.47.030](#), the Development Services Division of the Community ~~Planning and~~ Development ~~Services~~ Department is responsible for building permit issuance and plans review. The Building Official is hereby created as the official in charge of administering the provisions in Title 15. The Building Official shall be appointed by the Director of the Community ~~Planning and~~ Development ~~Services~~, to serve at the pleasure of said Director. The Building Official shall have the power to appoint deputy building official(s),

related technical officers, inspectors, plan examiners, and other employees, and all such employees shall have powers as delegated by the Building Official.

B. The Building Official and his or her duly authorized administrators shall be authorized and directed to enforce the provisions of this code and the Adopted Construction Codes. The Building Official shall have the power to render interpretations of this title and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformance with the intent and purpose of this code and the Adopted Construction Codes.

NOW THEREFORE, BE IT FURTHER ORDAINED by the City of Rapid City, that Section 15.04.130 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

15.04.130 Building Board of Appeals–Appeals.

A. Any appeal brought under § [15.04.120](#) shall be commenced within 22 calendar days from the date of said decision by filing with the Building Official a notice of appeal specifying all grounds for objections. Appellants shall pay a filing fee established by resolution of the City Council. The individual filing the appeal has the burden of establishing that the decision of the Building Official should be reversed, changed, or modified.

B. The Building Board of Appeals shall schedule a hearing within 22 calendar days from the date of appeal for the hearing of the appeal, giving public notice in the local newspaper 7 days prior to the hearing. If a hearing is not held or continued within 22 calendar days of the date of appeal, then the appeal will be deemed to be granted, except that any determination of the Building Official that concerns health and safety issues is not deemed granted for failure to meet this timeline. The appellant and other persons interested in the case shall be notified as to the time and date of the hearing.

C. The Board shall hear all arguments and review all evidence submitted by the appellant, the Building Official, and any other person(s) interested in the case, and shall render its opinion. The Board shall electronically record the hearing, keep minutes of its proceedings, maintain all documents reviewed or introduced as evidence at meetings, and keep a record of the proceeding on file at Building Services.

D. If an appeal before the Board concerns a particular trade, and if neither the Board member nor the alternate from this particular trade is in attendance at the meeting at which the appeal is considered, then an appellant can elect to continue the appeal until the next Board meeting.

E. The Board may affirm, modify or reverse the decision upon which an appeal was filed; may approve or disapprove requests for consideration of alternate materials and methods of construction; and may grant modifications to this code as discussed in this chapter. The Board shall act only upon the concurring vote of a majority of its members present and voting. **MAJORITY** shall mean more than 50% of the members present and voting. The decision

of the Board shall be final except that an appeal regarding a determination on a license may be appealed to the City Council. Every decision of the Building Board of Appeals shall indicate the vote upon the decision and be recorded in the minutes, which shall be kept on file in the office of the Building Official.

F. A decision of the Building Board of Appeals, which in effect may modify the provisions of the applicable code, shall not be considered a precedent for future decisions of the Building Official.

G. All decisions of the Board are final with the following exceptions:

1. An appeal regarding a determination on a license may be appealed to the City Council.
2. A decision of the Board that concerns the Plumbing Code may be appealed to the South Dakota Plumbing Commission.
3. A decision of the Board that concerns the Electrical Code may be appealed to the South Dakota Electrical Commission.

H. The details of any action granting modifications and use of alternative materials, design, and methods of construction shall be recorded and entered in the files of the permits and inspection division of the Community ~~Planning and~~ Development Department.

NOW THEREFORE, BE IT FURTHER ORDAINED by the City of Rapid City, that Section 15.04.140 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

15.04.140 Contractor licenses.

A. It shall be unlawful for any person to engage in any of the trades, businesses or occupations enumerated below in the city, or in any construction work pursuant to such trades, businesses or occupations in the city, without having first obtained a license from the city for the work authorized by such license.

B. General building contractor licenses are available for the following classes:

1. Class A, for construction of any and all types of structures;
2. Class B, for construction of detached single-family houses, attached single-family houses, and 2-family dwellings, as defined by the U.S. Census Bureau; or
3. Class C, as follows.

C. Class C trade licenses are available for the following classes:

1. Class PC - Plumbing contractor as provided in [Chapter 15.24](#);
2. Class MC - Mechanical contractor as provided in [Chapter 15.26](#);
3. Class MI - Mechanical installer as provided in [Chapter 15.26](#);

4. Class MA - Mechanical apprentice as provided in [Chapter 15.26](#);
5. Class MAS – Appliance specialist as provided in [Chapter 15.26](#);
6. Class EC – Electrical contractor as provided in [Chapter 15.16](#);
7. Class EB – Class B electrician as provided in [Chapter 15.16](#);
8. Class GC – Gas fitting contractor as provided in [Chapter 15.20](#);
9. Class GF – Gas fitter as provided in [Chapter 15.20](#);
10. Class GA – Gas fitting apprentice as provided in [Chapter 15.20](#);
11. Class R - Roofing contractor;

12. Class SD - Siding contractor, defined as a proprietorship, partnership, firm or corporation who, for compensation, undertakes or offers to undertake the installation, alteration, repair, improvement, conversion or new construction for exterior wall coverings when a building permit is required either materials or assembly of materials applied on the exterior side of exterior walls for the purpose of providing a weather-resistive barrier, insulation, or for aesthetics, including but not limited to veneers, siding and exterior insulation and finish systems as defined, architectural trim and embellishments such as cornices, soffits and fascias; and

13. Class S - Sign contractor, defined as a proprietorship, partnership, firm or corporation who, for compensation, undertakes or offers to undertake the enlargement, alteration, repair, improvement, conversion or new construction of a sign for which a sign permit required.

D. Each applicant for every license and registration required by this title shall provide to the Community ~~Planning and Development~~**Services** office the following information:

1. A completed application for the particular license desired available at the Community ~~Planning and Development~~ **Services** office;
2. A copy of the applicant's South Dakota excise tax license, as applicable;
3. The applicant's address and phone number;
4. If available, the name, address, phone number, and email of an agent residing in South Dakota;
5. For firms required to file organizing or incorporating documents with the Secretary of State, proof that it is a validly existing legal entity authorized to transact business in South Dakota;
6. Payment of the application fee as set by resolution of the Common Council; and
7. If applicable, a copy of any equivalent state license.

E. Each applicant for a general building contractor license, that is a firm and not a natural person, shall designate on the application at least 1 license holder who shall sit for the required examination, if applicable.

1. If the applicant is a firm, it may designate an officer or employee of the firm as license holder. A **FIRM** under this section is defined as a partnership, limited partnership, limited liability partnership, limited liability limited partnership, limited liability company, corporation or other legal entity.

2. An applicant may designate multiple license holders, all of whom, upon successful completion of the examination, shall be listed on the license issued to the contractor.

F. The Building Official shall have the right to require of an applicant proof of ability to perform satisfactorily in the business, trade or occupation for which the license or registration is applied for. Such proof of ability may be required to be evidenced in a fair and impartial manner by approved tests or by certification.

1. Before a general building contractor license may be issued, at least 1 designated license holder shall be required to pass an examination as to his or her qualifications to perform building contracting. Applicants shall pay the examination fee for each exam.

2. Before a trade license may be issued to a firm, at least 1 designated license holder shall be required to pass an examination as to his or her qualifications to supervise the particular trade. The examination shall be given under the direction of the Building Official.

3. In lieu of the examination, the Building Official may accept proof that the applicant possesses a valid current license in the relevant Class A and Class B license issued by any other governmental agency giving an examination, the scope and character of which, in the discretion of the Building Official, is at least equal to those tests given by the city.

G. Every applicant for every license shall present to the Building Official for review a valid certificate of insurance at the time of application. It shall be the duty of every licensee to continually maintain valid liability insurance. The minimum required general aggregate liability shall be \$1,000,000 with \$300,000 fire damage and \$1,000,000 each occurrence.

H. The following exceptions do not require a license:

1. Employees of a general building contractor license if they are under the supervision of a license holder.

2. A landlord personally performing work on residential property the landlord owns or manages when the landlord is acting as his or her own contractor, except work which would require a license under [Chapters 15.16](#), [15.20](#), [15.24](#), and [15.26](#). A landlord may not build more than 1 single-family dwelling in a 3-year period without obtaining a contractor's license.

3. A homeowner who builds, constructs, alters, adds to or demolishes any building or structure or any portion thereof that constitutes the owner's residence or a building or structure accessory thereto that is intended for the owner's personal use. An owner may not build more

than 1 single-family dwelling in a 3-year period without obtaining a contractor's license, provided he or she occupies the dwelling a minimum of 1 year after the final inspection is approved.

I. In accordance with South Dakota state law, proof of worker's compensation insurance shall be verified prior to the issuance of a license.

J. No licensee or landlord shall allow his or her name to be used by any other person directly or indirectly, either to obtain a building permit or to perform work under this code outside his or her supervision.

K. It shall be the duty of each general building contractor or trade license that is a firm to immediately notify the Building Official in writing upon the designation of a license holder or the termination or separation of a license holder listed on the contractor's license.

1. Upon the termination or separation of a designated license holder, the general building contractor license shall expire 10 business days following such separation or termination unless:

- a. There is another license holder listed on its license;
- b. The contractor immediately designates another license holder who has passed the examination; or
- c. The license is extended as provided herein.

2. The contractor may, within 10 business days of any such termination or separation, request in writing from the Building Official an extension of its general building contractor license, and the Building Official shall grant an extension for a period not to exceed 30 days from the date of termination or separation.

3. No contractor may be issued a new permit during the period where no license holder is listed on its general contractors license.

L. Except as provided below, all Class A, Class B and Class C licenses issued under the provisions of this chapter are valid for 3 years except where state law defines time frame.

1. Licensees failing to renew their applications prior to expiration have a 30-day grace period during which to renew before the license lapses. Licensees who fail to renew their license by the date of expiration or within the 30-day grace period shall be required to reapply for a new license, meeting all requirements of this code and paying all required fees. If the license has lapsed for more than 1 year after expiration, then the licensee must pass any examination required pursuant to this section; however, if an applicant who was previously licensed by the city obtains a license within a year of expiration of the previous license, then no re-examination is required. No renewal license may be issued until the licensee has completed the requirements for continuing education.

2. No partial payment shall be received by the Finance Office for any license or registration fee, and the Finance Office is hereby prohibited from receiving any sum less than the amount

required by the terms of the provisions pertaining to the particular contractor license applied for. The amount of the license fee will be determined by resolution of the Common Council.

M. All plumbing contractor licenses are valid for 1 year. Renewal applications may be filed 60 days prior to expiration of the license. Licensees failing to renew their applications prior to expiration have a 60-day grace period during which to renew before the license lapses. Licensees who fail to renew their license by the date of expiration or within the 60-day grace period shall be required to reapply for a new license, meeting all requirements of this code and paying all required fees. No renewal license may be issued until the licensee has completed the requirements for continuing education. No partial payment shall be received by the Finance Office for any license or registration fee, and the Finance Office is hereby prohibited from receiving any sum less than the amount required by the terms of the provisions pertaining to the particular contractor license applied for. The amount of the license fee will be determined by resolution of the Common Council.

N. All electrical contractor licenses and Class B electrician licenses are valid for 2 years. Licenses will expire on December 31 of even years. Renewal applications may be filed 60 days prior to expiration of the license. Licensees failing to renew their applications prior to expiration have a 60-day grace period during which to renew before the license lapses. Licensees who fail to renew their license by the date of expiration or within the 60-day grace period shall be required to reapply for a new license, meeting all requirements of this code and paying all required fees. No renewal license may be issued until the licensee has completed the requirements for continuing education. If the license has lapsed for more than 1 year after expiration, then the licensee must pass any examination required pursuant to this section; however, if an applicant who was previously licensed by the city obtains a license within a year of expiration of the previous license, then no re-examination is required. No partial payment shall be received by the Finance Office for any license or registration fee, and the Finance Office is hereby prohibited from receiving any sum less than the amount required by the terms of the provisions pertaining to the particular contractor license applied for. The amount of the license fee will be determined by resolution of the Common Council.

O. Upon adoption of this chapter, the Building Official will honor existing licenses until they expire, at which time the licensee must comply with all requirements of this chapter prior to obtaining a license.

P. Upon receipt of a license approved by the Building Official, the Finance Officer shall issue a license to the applicant.

Q. Proof of continuing education hours must be submitted by the applicant at the time of any license renewal application under this chapter. The continuing education requirement for license renewal of general building contractor licenses and trade licenses is as follows:

1. Six hours per license period for general building contractor licenses, sign contractors, roofing contractors, and licenses issued under the Mechanical Code found in [Chapter 15.26](#).

2. For licenses pursuant to the electrical code and the plumbing code, per the requirements of the State of South Dakota.

R. The class topics for continuing education shall include, but are not limited to:

1. Requirements of the building codes;
2. Local amendments to the Rapid City Code;
3. State of South Dakota amendments; or
4. Requirements for codes for any of the trades such as electrical, plumbing, mechanical, fire alarm, fire sprinkler, fencing, concrete, signs, lawn sprinkler, right-of-way, asbestos, drywall, roofing, siding and excavation.

S. It shall be the duty of every person receiving a license or registration pursuant to this chapter to exhibit any such license or registration upon request of a law enforcement officer or a duly appointed representative of the city.

T. All trades listed in § [15.04.140.C](#) must be licensed under this section, unless an exception applies. If a subcontractor is not licensed in violation of this section, the subcontractor and any general contractor are subject to sanctions as provided in this code.

U. It shall be within the discretion of the Building Official to suspend, revoke or refuse to issue or renew the license of any person who has been doing work without a permit as required by § [15.04.150](#).

V. It shall be within the discretion of the Building Official to suspend, revoke, or refuse to issue or approve any general building contractor or trade license if the Building Official finds the following:

1. Suspension, revocation or refusal to renew is in the public interest; and
2. Based upon evidence presented, the applicant or licensee:
 - a. Has filed an application for a license which is incomplete in any material respect or contains 1 or more statements which are false or misleading;
 - b. Has engaged in any fraudulent, deceptive, or dishonest act or practice in the performance of building contracting and/or the trade;
 - c. Has violated any applicable provision of this section, the Adopted Construction Codes, Rapid City Municipal Code, or state regulation or law;
 - d. Fails to maintain the requirements of licensure, including insurance, excise tax license or current phone and address as required by this chapter;
 - e. Fails to provide copies of records in his or her possession related to a matter under review;
 - f. Fails to pay fees in a timely manner;

g. Fails to respond to a lawful order or directive of the Building Official or the Building Board of Appeals; or

h. Fails to possess a valid state license for the particular trade, if such a license is required by state law.

W. A licensee who is the subject of a review by the Building Official shall cooperate fully with the Building Official. Cooperation includes, but is not limited to:

1. Responding fully and promptly to questions raised by the Building Official;
2. Providing copies of records in the person's possession relative to the matter under review, as requested by the Building Official; and
3. Appearing at conferences or hearings scheduled by the Building Official.

NOW THEREFORE, BE IT FURTHER ORDAINED by the City of Rapid City, that Section 15.04.300 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

15.04.300 Violations and penalties.

A. It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, move, improve, remove, convert, demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this title.

B. If the owner, contractor, lessee, firm, corporation or other individuals(s) responsible for the violation shall fail to make such changes, alterations or repairs within the time set forth in the notice of violation, and no extension of such time has been procured, the Director of Community ~~Planning and~~ Development or his or her duly authorized representatives shall forward such evidence of violations to the Office of the City Attorney for proper legal action.

C. Any person who shall commence any building work for which a permit is required by this code without first having obtained a permit therefor shall, if subsequently permitted to obtain a permit, pay double the permit fee fixed by this section for the work; provided, however, that, this provision shall not apply to emergency work when it shall be proved to the satisfaction of the Building Official that the work was urgently necessary and that it was not practical to obtain a permit therefor before the commencement of the work. In all such cases, a permit must be obtained as soon as it is practical to do so, and if there be an unreasonable delay in obtaining the permit, a double fee as herein provided shall be charged.

NOW THEREFORE, BE IT FURTHER ORDAINED by the City of Rapid City, that Section 15.04.340 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

15.04.340 City addressing.

A. The following rules apply to numbering buildings and assigning addresses:

1. Buildings on the east side of any street or avenue shall be given even numbers, and buildings on the west side thereof shall be given odd numbers.

2. Buildings on the north side of any street or avenue shall be given even numbers and buildings on the south side shall be given odd numbers.

3. On all streets and avenues running east and west, the numbering shall begin at East Boulevard in the original townsite, at Lincoln Avenue south of the original townsite, and north of East Boulevard the numbering shall begin at the center of Blocks 1, 28 and 29 of the North Rapid Addition. East of this division line, the names of all east and west streets shall be preceded by the word East. The numbering shall be increased at the rate of 100 for each block east or west.

4. On all streets and avenues running north and south beginning in the original townsite, the numbering shall begin at the alley between Chicago and St. Louis Streets. The numbering shall be increased at the rate of 100 for each block and the names of all north and south streets, north of this division line, shall be preceded by the word North. East of the original townsite, St. Louis Street shall be the dividing line for numbering north and south streets. West of West Boulevard the dividing line shall be the south 1/16 line of Sections 32, 33, 34 and 35, etc. T2N, R7E.

B. The address grid shall be established by the Community ~~Planning and~~ Development ~~Services~~ Department. All city addresses shall whether new or old shall reasonably fall within the proper hundred block, in sequence within the range, and properly designated odd or even. Gaps between numbering shall be provided to accommodate future numbers. Addresses not within the proper hundred block, out of sequence within the range, or improperly designated odd or even shall be declared improper. Improper addresses are subject to change.

C. A copy of the grid map is available at the office of Community ~~Planning and~~ Development ~~Services~~ or GIS.

D. It shall be the duty of the owner or agent having control of any house or building to have the house or building properly numbered as provided for in this chapter, the correct number to be obtained from the Community ~~Planning and~~ Development ~~Services~~ Department. In case any house or building is incorrectly numbered, the Building Official may order the owner or agent thereof to correctly number the same and it is unlawful for the owner or agent to refuse to comply with the order. The number of any structure hereafter erected, as determined by the Building Official, shall be indicated on the building permit.

NOW THEREFORE, BE IT FURTHER ORDAINED by the City of Rapid City, that Section 15.04.360 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

15.04.360 Contingent building permits for footings and foundations.

A. A building permit may be issued by the Building Official, with the approval of the Director of Community ~~Planning and~~ Development ~~Services~~ and the Director of Public Works, or their respective designees, to allow the construction of footings and foundations only, pending the completion of approval by the city of a rezoning, variance, plat, conditional use permit, planned development permit, code revision or other similar matter, subject to the following:

1. The applicant has provided all information and materials required or requested and has paid all required fees;

2. The Director of Community ~~Planning and~~ Development ~~Services~~ and the Director of Public Works anticipate that within a reasonably short time the necessary approvals will be made;

3. There is no known objection by any affected party; and

4. The applicant and property owner have executed an agreement satisfactory to the Building Official recognizing that construction of footings and foundations are done at the risk of the property owner and agreeing that if the necessary approval is not granted, the property owner at his or her own expense will remove all footings and foundations constructed pursuant to the contingent permit including all necessary restoration of the site, within 120 days of the date of the denial of the required approval.

B. The issuance of contingent permit for the construction of footings and foundations shall be within the discretion of the Building Official. The contingent permit shall only allow the construction of footings and foundations and shall not be construed to imply any assurance on the part of the city that any approval necessary to allow construction of the project will be granted or to imply any liability on the part of the city if the approval is not granted.

NOW THEREFORE, BE IT FURTHER ORDAINED by the City of Rapid City, that Section 15.24.010 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

15.24.010 Adoption.

There is adopted by the city the 2015 Uniform Plumbing Code, as adopted by the South Dakota State Plumbing Commission. A copy of the same is on file in the office of the Community ~~Planning and~~ Development ~~Services~~ Department.

NOW THEREFORE, BE IT FURTHER ORDAINED by the City of Rapid City, that Section 15.24.030 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

15.24.030 Department having jurisdiction.

Unless otherwise provided for by law, the office of the administrative authority shall be a part of the Community ~~Planning and~~ Development ~~Services~~ Department.

NOW THEREFORE, BE IT FURTHER ORDAINED by the City of Rapid City, that Section 15.24.040 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

15.24.040 Plumbing Inspector–Qualifications.

The Plumbing Inspector shall be under the administrative supervision of the Building Official and the Director of Community ~~Planning and~~Development-. Any person hired as Inspector shall have experience as a plumber or equivalent thereto as determined by State of South Dakota and the Director of Community ~~Planning and~~Development-.

NOW THEREFORE, BE IT FURTHER ORDAINED by the City of Rapid City, that Section 15.26.080 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

15.26.080 IMC Chapter 1, Section 103 Department of Mechanical Inspection–Amended.

IMC Chapter 1, Section 103 Department of Mechanical Inspection is hereby amended to read in its entirety as follows:

103.1 General. Building Services is hereby created and the executive official in charge thereof shall be known as the Building Official.

103.2 Appointment. The Building Official shall be appointed by the Director of the Community ~~Planning and~~Development~~Services~~, to serve at the pleasure of said Director.

103.3 Deputies. In accordance with the prescribed procedures of the City of Rapid City and with the concurrence of the Director of the Community ~~Planning and~~Development~~Services~~, the Building Official shall have the authority to appoint a deputy Building Official, other related technical officers, inspectors and other employees.

103.4 Liability. The Building Official, officer or employee charged with the enforcement of this code, while acting for the City of Rapid City, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of official duties.

NOW THEREFORE, BE IT FURTHER ORDAINED by the City of Rapid City, that Section 15.32.280 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

15.32.280 Permit procedure.

A. A floodplain development permit shall be obtained before construction or development begins within any area of special flood hazard established in § [15.32.060](#). Application for a floodplain development permit shall be filed with the Community ~~Planning and~~Development ~~Services~~ Department and may include, but not be limited to, plans drawn to scale, showing the nature, location, dimensions, and elevations of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, fill, storage of materials, drainage facilities; and the location of the foregoing in relation to areas of special flood hazard.

B. Additionally, the following information is required:

1. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
2. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
3. A certificate from a registered professional engineer that the nonresidential floodproofed structure shall meet the floodproofing criteria of § [15.32.150](#); and
4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.

NOW THEREFORE, BE IT FURTHER ORDAINED by the City of Rapid City, that Section 15.32.300 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

15.32.300 Application for variances.

All applications for variances shall be filed with the Community ~~Planning and~~ Development ~~Services~~ Department, which shall schedule a review of the variance application by the Planning Commission. The fee for the variance application shall be as established by resolution of Common Council.

A. Time for action by the Planning Commission. Within 30 days after receiving an official application, the Planning Commission shall either recommend approval or disapproval of the application or require additional information. In those cases where additional information is requested, time for action by the Planning Commission to recommend approval or disapproval of an application shall be extended an additional 30 days. No more than 2 extensions shall be granted.

B. Time for action by the Common Council. After the Planning Commission has recommended either approval or denial, a copy of their decision shall be filed within 5 days with the city's Finance Officer. The Common Council shall set, within 30 days following the date of Planning Commission action, a hearing on the application for the variance. The Common Council shall, within 30 days of the hearing, either approve or deny or require additional information of the applicant. In those cases where additional information may be required, time for action by the Common Council to approve or deny an application shall be extended additional 30 days. No more than 2 extensions shall be granted by the Common Council; however, the failure of the Common Council to approve or deny shall not be construed as approval.

C. Procedure to be followed by Planning Commission in variance applications. Upon receiving an application for a variance involving the use of fill or construction of structures, the Planning Commission or Common Council shall require prior to rendering a recommendation thereon:

1. The applications shall include postal registration data that substantiates petitioner's good faith attempt of mailing 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 dates set for the hearings before the Planning Commission on the variance and shall be on a form provided by the Community ~~Planning and~~ Development ~~Services~~ Department;

2. Require the applicant to furnish the following information as is deemed necessary by the Planning Commission or Common Council for determining the suitability of the particular site for the proposed use:

a. Five sets of plans drawn to scale showing the nature, location, dimensions and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the preceding to the location of the channel or floodway, the base flood elevation, and regulatory flood protection elevations;

b. A typical valley cross section, to scale, showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross section areas to be occupied by the proposed development, and high-water information;

c. Plan (surface view), to scale, showing elevations or contours of the ground; pertinent structures, fill or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, water supply, sanitary, facilities; photographs showing existing land uses and vegetation upstream and downstream for a significant reach, soil types, and other pertinent information;

d. Profile, to scale, showing the slope of the bottom of the channel or flow line of the stream and the existing and proposed flood elevations; and

e. Specifications of building construction and materials, floodproofing, storage of materials, water supply and sanitary facilities.

3. Transmit 1 copy of the information described in subsection C.2.a. of this section to a registered professional engineer for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities; the seriousness of flood damage to the use, the adequacy of the plans for protection and other technical matters;

4. Based upon the technical evaluation of the designated engineer or expert, the Commission shall determine the specific flood hazard at the site and shall evaluate the suitability of the proposed use in relation to the flood hazard.

D. Factors upon which the decision of the Planning Commission or Common Council shall be based. In passing upon the applications, the Planning Commission and Common Council shall consider all relevant factors specified in other sections of this chapter and:

1. The danger to health, safety, welfare and property due to increased flood heights or velocities caused by encroachments;

2. The danger that materials may be swept onto other lands or downstream to the injury of any person or property;

3. The proposed water supply and wastewater systems and the ability of these systems to prevent disease, contamination and unsanitary conditions;

4. The susceptibility of the proposed facility and its contents to flood damage and the effect of the damage on the individual occupant, both present and future;
5. The importance of the services provided by the proposed facility to the community;
6. The requirements of the facility for a waterfront location, where applicable;
7. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
8. The compatibility of the proposed use with existing, anticipated, or other proposed developments in the foreseeable future;
9. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area;
10. The safety of access to the property in times of flood for ordinary and emergency vehicles;
11. The expected heights, velocity, duration, rate of rise and sediment transportation of the floodwaters expected at the site;
12. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets and bridges; and
13. Such other factors which are relevant to the purpose of this chapter.

E. *Conditions attached to variances.*

1. Upon consideration of the preceding factors and the purposes of this chapter, the Planning Commission or Common Council may attach such conditions to be granting of variances as it deems necessary to further the purposes of this chapter.
2. Conditions for variances:
 - a. Variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and with surrounded by lots with existing structures constructed below the base level, providing subdivisions 1. through 13. of subsection D. of this section have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justifications required for issuing the variance increase.
 - b. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure, and the variance is the minimum necessary to preserve the historic character and design of the structure.
 - c. Variances shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
 - d. Variances shall only be issued upon determination that the variance is the minimum necessary deviation from the requirements of this chapter.
 - e. Variances shall only be issued upon:

- i. A showing of good and sufficient cause;
- ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
- iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in subsection D. of this section or conflict with existing local laws or ordinances.

f. Any applicant to whom a variance is granted shall be notified in writing that:

- i. The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance; and
- ii. Such construction below the base flood level increases risks to life and property.

3. Among such conditions without limitation because of specific enumeration may be included:

- a. Modification of waste disposal and water supply facilities;
- b. Limitations on period of use and operation;
- c. Imposition of operational controls, sureties and deed restrictions;
- d. Requirements for construction of channel modification dikes, levees, and other protective measures;
- e. Floodproofing safeguard. Floodproofing safeguards such as the following shall be designed consistent with the flood protection elevation for the particular area, flood velocities, durations, rare of rise, hydrostatic and hydrodynamic forces and other factors associated with the regulatory flood. The Planning Commission shall require that the applicant submit a plan or document certified by the registered professional engineer that the floodproofing safeguards are consistent with the regulatory flood protection elevation and associated flood factors for the particular area. The following floodproofing safeguards may be required without limitation because of specific enumeration:

- i. Anchorage to resist flotation and lateral movement;
- ii. Installation of watertight doors, bulkheads and shutters, or similar methods of construction;
- iii. Reinforcement of walls to resist water pressures;
- iv. Use of paints, membranes or mortars to reduce seepage of water through walls;
- v. Addition of mass or weight to structures to resist flotation;
- vi. Installation of pumps to lower water levels in the structure;
- vii. Pumping facilities or comparable practices for subsurface drainage systems for building to relieve external foundation wall and basement flood pressures;

- viii. Construction of water supply and waste treatment systems so as to prevent the entrance of floodwaters;
- ix. Construction to resist rupture or collapse caused by water pressure or floating debris;
- x. Installation of valves or controls on sanitary and storm drains which will permit the drains to be closed to prevent backup of sewage and storm waters into the buildings or structures. Gravity draining of basement may be eliminated by mechanical devices;
- xi. Location of all electrical equipment, circuits and installed electrical appliances in a manner which will assure they are not subject to flooding and to provide protection from inundation by the regulatory flood;
- xii. Location of any structural storage facilities for chemicals, explosives, buoyant materials, flammable liquids, or other toxic materials which could be hazardous to public health, safety and welfare in a manner which will assure that the facilities are situated at elevations above the height associated with the regulatory flood protection elevation or are adequately floodproofed to prevent flotation of storage containers, which could result in the escape of toxic materials into floodwaters;
- xiii. Such other safeguards that the Planning Commission and/or Common Council shall determine necessary.

E. Overriding recommendation of Planning Commission. It shall take a majority vote of the entire membership of the Common Council to override the recommendation of the Planning Commission.

NOW THEREFORE, BE IT FURTHER ORDAINED by the City of Rapid City, that Section 15.48.050 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

15.48.050 Building permit required.

A building permit is required for every new or used manufactured home installed in a manufactured home park, and must be obtained at the Department of Community Planning and Development Services. Permits are also required for any gas, plumbing, electrical and mechanical work. All work shall comply with the currently adopted zoning, building, gas, plumbing, electrical and mechanical codes. The fees for permit applications shall be identical to the current building code fee schedule adopted by the city.

CITY OF RAPID CITY

Mayor

ATTEST

Finance Officer

(seal)

First Reading:

Second Reading:

Published:

Effective: