

ARTICLE 7 ADMINISTRATION, ENFORCEMENT, AND AMENDMENT

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Section 7.1 Administration and Enforcement

7.1.1 General Provisions

The Inspecting Officer shall administer, enforce, and implement these regulations. He may be provided with the assistance of such other persons as the chief executive may direct. If the Inspecting Officer shall find that any of the provisions of these regulations are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by these regulations to ensure compliance with or to prevent violation of its provisions.

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Section 7.2 Building Permits

7.2.1 General

(a) No building or other structure shall be erected, added to, or structurally altered unless a building permit therefor has been issued by the Inspecting Officer, but no building permit shall be required for:

- (1) improvements having a cost or value of less than fifty dollars.
- (2) uses exempt from these regulations, as set forth in Section 1.3.2.

(b) No building or part of a building shall be moved through or across any street, alley, or highway unless a building permit for the moving thereof shall have been issued by the Inspecting Officer. Except for uses exempt from these regulations, as set forth in Section 1.3.2, no building or part of a building shall be moved from one part of a lot to another part of the same lot, or from one lot to a contiguous lot, unless a building permit for the moving thereof shall have been issued by the Inspecting Officer. Permits for moving buildings shall be as provided in Section 7.2.8.

7.2.2 [reserved]

7.2.3 Application for Building Permit

(a) All Applications:

(1) each application for a building permit shall be on a form or forms supplied by the Inspecting Officer; the number of copies of forms and accompanying documents shall be determined by the Inspecting Officer;

(2) the application shall include such information as may be required by the Inspecting Officer as necessary for determining compliance of the proposed construction with these regulations;

- (3) the application shall be accompanied by:
- a. Plans, drawn to scale, showing the shape and dimensions of the lot to be built upon and the shapes, dimensions, and locations of the lot of all all existing and proposed buildings or alterations, and
 - b. an application for a certificate of occupancy as provided in Section 7.3.

7.2.5 Action on Application for Building Permit

(a) All Applications: No building permit shall be issued by the Inspecting Officer except in conformity with the provisions of these regulations, unless he receives a written order from the Board of Adjustment in the form of an administrative review, conditional use permit, variance, or finding as provided by these regulations. One copy of the permit and attachments shall be returned to the applicant by the Inspecting Officer, after he shall have marked such documents either as approved or disapproved and attested to same by his signature on such documents. The Inspecting Officer shall retain such copies as needed for his office.

(b) Application for Flood Area Building Permits:

(1) The provisions of 7.2.5(a) shall apply to such applications.

(2) Approval or denial of a flood area building permit by the Inspecting Officer shall be based on all of the provisions of Section 2.10 and the following relevant factors:

- a. The danger to life and property due to flooding or erosion damage;
- b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- c. The danger that materials may be swept onto other lands to the injury of others;
- d. The compatibility of the proposed use with existing and anticipated development;
- e. The safety of access to the property in terms of flood for ordinary and emergency vehicles;
- f. The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical, and water systems;
- g. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

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- h. The necessity to the facility of a waterfront location, where applicable;
- i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- j. The relationship of the proposed use to the Comprehensive Plan for that area.

(3) No flood area building permit shall be issued until the Engineer certifies in writing that the application therefor complies with the requirements of Section 2.10.

7.2.7 Expiration of Building Permit

(a) Beginning of Work: If the work described in any building permit has not begun within 90 days from the date of issuance thereof, said permit shall expire; it shall be cancelled by the Inspecting Officer; and written notice thereof shall be given to the persons affected.

(b) Completion of Work: If the work described in any building permit has not been substantially completed within two years of the date of issuance thereof, said permit shall expire and be cancelled by the Inspecting Officer, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new building permit has been obtained.

7.2.8 Building Permit for Moving a Building

*Enforced by Jack
McGuire S.D. Permit*

(a) Application: Any person desiring to move a building shall first file with the Inspecting Officer a written application setting forth the following information:

- (1) Type and kind of building to be moved.
- (2) The original cost of such building.
- (3) The extreme dimensions of the length, height, and width of the building.
- (4) Its present location and proposed new location by lot and block numbers and subdivision names, or other legal description, and street addresses, if established.
- (5) The approximate time such building will be upon the streets, alleys, or highways, and the contemplated route that will be taken from the present location to the new location.

(b) Rejection: If in the opinion of the Inspecting Officer, the moving of any building will cause serious injury to persons or property or serious injury to the streets, alleys, highways, or other public improvements, or the building

to be moved has deteriorated more than fifty percent of its original value by fire or other element, or the moving of the building will violate any of the requirements of these regulations or other regulations or ordinances of the unit of government, the permit shall not be issued and the building shall not be moved.

Section 7.3 Certificate of Occupancy

7.3.1 General Requirement

(a) It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of occupancy shall have been issued therefor by the Inspecting Officer stating that the proposed use of the building or land conforms to the requirements of these regulations, except as provided in paragraph (b) hereof.

(b) No certificate of occupancy shall be required for:

(1) the continuation, unchanged, of an existing use, except as provided for nonconforming uses in Subsection 7.3.2.

(2) the planting or harvesting of crops or gardens or the grazing of cattle or horses where permitted by the district regulations.

(3) uses exempt from these regulations, as set forth in Section 1.3.2.

7.3.2 Nonconforming Structures and Uses

No nonconforming structure or use shall be maintained, renewed, changed, or extended until a certificate of occupancy shall have been issued by the Inspecting Officer. The certificate of occupancy shall state specifically wherein the nonconforming use differs from the provision of these regulations, provided that upon enactment or amendment of these regulations, owners or occupants of nonconforming uses or structures shall have three months to apply for certificate of occupancy. Failure to make such application within three months shall be presumptive evidence that the property was in conforming use at the time of enactment or amendment of these regulations.

7.3.3 Application for and Issuance of Certificate of Occupancy

(a) Application: Each application for a certificate of occupancy shall be on a form supplied by the Inspecting Officer, which form may be combined with the application for a building permit and shall include such information as may be required by the Inspecting Officer for determining compliance of the proposed use with these regulations.

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(b) Issuance: No certificate of occupancy shall be issued by the Inspecting Officer except in conformity with these regulations. Where an application for a certificate of occupancy accompanies an application for a building permit, the certificate of occupancy shall not be issued until the building described in the building permit has been completed in conformity with these regulations.

7.3.4 Temporary Certificate of Occupancy

A temporary certificate of occupancy may be issued by the Inspecting Officer for a period not exceeding six months during alterations or partial occupancy of a building pending its completion, provided that such temporary certificate may include such conditions and safeguards as will protect the safety of the occupants and the public.

7.3.5 Records and Copies

The Inspecting Officer shall maintain a record of all certificates of occupancy and a copy shall be furnished upon request to any person.

7.3.6 Failure to Obtain Certificate of Occupancy

Failure to apply for a certificate of occupancy, where required by this Section, shall be a violation of these regulations and punishable under Section 7.7 thereof

Section 7.4 Conditional Use Permits

Conditional use permits shall be granted by the Board of Adjustment, as provided in Subsection 6.5.4.

Section 7.5 Compliance with Applications and Permits

Building permits or certificates of occupancy issued on the basis of plans and applications approved by the Inspecting Officer authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of these regulations and punishable as provided by Section 7.7.

Section 7.6 Fees, Charges, and Expenses

7.6.1 General

The fees set forth in this section shall be paid to the Clerk on the filing of any application and prior to the processing thereof or other action thereon.

7.6.2 Building Permit Fees

(a) Industrial, commercial, and other nonresidential building permit fees for (a) construction in districts I-1 through I-4 and C-1 through C-6 and (b) all other construction not covered by paragraph (b) hereof shall be as follows:

(1) building inspection fees:

1/4 of 1% of cost of construction up to and including \$75,000.00

1/8 of 1% of cost of construction for all over \$75,000.00

Minimum fee: \$3.50

(2) optional inspection fees: The following fees are applicable only if inspections are requested by owner. If inspection is not requested, a notarized affidavit by a registered professional engineer or a licensed architect stating that all provisions of all codes have been met, must be filed with the office of the planning commission.

a. Electrical inspection fees (industrial and commercial only)

1. Minimum fee: \$2.00
 \$2.00 for the first 100 amperes capacity
 \$1.00 for each additional 100 amperes capacity or fraction there
2. Rough-in:
 \$2.00 for the first five openings
 \$.15 for each device in excess of the first five
3. Final (fixed electrical devices)
 \$2.00 for the first five devices
 \$.15 for each device in excess of the first five
4. Motors
 \$2.00 for the first motor HP or fraction thereof
 \$.25 for each additional HP over one HP
 Re-inspection fee: \$2.00

b. Mechanical inspection fees (industrial and commercial only)

Minimum fee:	\$2.00	
Gas fired appliance		each \$ 1.00
Gas piping, per meter		3.00
Refrigeration Unit	1 1/2 HP to 24 HP	5.00
"	" 25 HP to 49 HP	10.00
"	" 50 HP to 99 HP	20.00
"	" 100 HP up	30.00
Re-inspection fee:	\$2.00	..

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(b) Residential and single mobile homes (including buildings "moved in"):

(1) 1/8 of 1% of cost of construction up to and including \$50,000.00
1/16 of 1% of cost of construction for all over \$50,000.00
Minimum fee: \$5.00

(2) In the case of modular homes, building permit fees will be collected on both the cost of the unit and the improvements to the site.

(3) Plumbing Permit Fees: (Industrial, Commercial and Residential)

Minimum fee: \$2.00

\$1.00 for each of the first three fixtures and drains, and .75¢ for all fixtures and drains over the first three.

\$1.00 for inspection of the water system.

\$1.00 for inspection of the sewer system.

Re-inspection fee: \$2.50

(4) Electrical Inspection Fees - (Industrial, Commercial and Residential)

Minimum fee: \$2.50

\$2.00 for the first 100 amp. capacity.

\$1.00 for each additional 100 amp. capacity or fraction thereof.

Rough-in:

\$2.00 for the first five openings and .15¢ for each device in excess of the first five.

Final: (Fixed Electrical Devices)

\$2.00 for the first five devices and .15¢ for each device in excess of the first five.

Motors:

\$2.00 for the first motor HP or fraction thereof and .25¢ for each additional HP over one HP.

Re-inspection fee: \$2.00

(5) Mechanical Equipment - (Industrial, Commercial and Residential)

Minimum fee: \$2.00

Gas fired appliance

each \$ 1.00

Gas piping, per meter

3.00

Refrigeration Unit - 1 1/2 HP to 24 HP

5.00

Refrigeration Unit - 25 HP to 49 HP

10.00

Refrigeration Unit - 50 HP to 99 HP

20.00

Refrigeration Unit - 100 HP up

30.00

Re-inspection fee: \$2.00

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7.6.3 Other Permit Fees:

(1) Planned development, including mobile home parks	
a. basic fee	\$50.00
b. addition fee per acre or if divided into lots	5.00
c. addition fee per lot	2.00
(2) moving permit	5.00
(3) conditional use permit	20.00
(4) variance	20.00
(5) map amendment (change of zoning)	20.00
(6) other action requiring public hearing	10.00

Penalty for beginning work without a permit: All fees set forth in this section will double if builder has to be notified to buy a building permit after work has been started.

Cost of advertising and notice: The applicant shall pay the cost of any required legal notice, and be responsible for placing the notice and providing proof of publication to the Planning Commission ten (10) days prior to any public hearing. The applicant shall be responsible for the posting of any signs required by Section 7.6.3.

7.7 Violations

(a) Complaints Regarding Violations: Whenever a violation of these regulations occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Inspecting Officer. He shall record properly such complaint, immediately investigate, and take action thereon as provided by these regulations.

(b) Penalties for Violations: Violation of the provisions of these regulations or failure to comply with any of these requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional use permits) shall constitute a misdemeanor. Any person, firm, or corporation who violates or refuses to comply with any of the provisions of these regulations shall be fined not less than twenty-five dollars (\$25.00), nor more than 100 dollars (\$100.00), including costs, for each offense. Each day such violation continues shall be considered a separate offense.

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

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7.7 Violations

Nothing herein contained shall prevent the unit of government from taking such other lawful action as is necessary to prevent or remedy any violation.

Section 7.8 Amendment of Zoning Regulations

7.8.1 Application for Amendment

(a) Who May Apply: Any person, association, firm, or agency of government may apply for amendment of these regulations.

(b) Form, Content, and Fees: An application for a zoning map amendment shall be in such form and have such content as the planning commission may by resolution establish. Fees shall be as set forth in Section 7.6 and shall be paid whether application is made to the planning commission or the governing body.

(c) Time for Filing: Each application shall be filed with the planning commission at least 30 days prior to the date of the public hearing at which it is to be considered, unless the planning commission by a two-thirds vote permits a shorter period for reasons shown.

(d) Limit on Frequency of Hearings on Same Application: When the governing body shall have, after public hearing, denied any application to change the zoning classification of any land, no application to change the zoning classification of such land or any part thereof shall be eligible for public hearing within 12 months after such prior public hearing, provided, however, that if the latter application is for a zoning district which is clearly more restrictive than that described in the prior application, the new application shall be eligible for public hearing six months after the prior public hearing.

7.8.3 Action on Application for Amendments

Any application for amendment of these regulations shall be reviewed and acted upon as follows:

(a) Where an application is made directly to the governing body, it shall be referred by the governing body to the planning commission for processing in the same manner as if the application had been made to the planning commission, except that the planning commission shall make a report to the governing body on each application, regardless of whether or not it holds a public hearing thereon.

(b) With respect to each application received, either directly or by referral from the governing body, the Inspecting Officer shall review the application, and he may set the application for public hearing before the planning commission.

(c) If the Inspecting Officer does not set the application for public hearing, he shall report it to the planning commission, who shall vote to set the application or a modification thereof for public hearing or deny it.

(d) Prior to recommending approval of an application or approval subject to modification, the planning commission shall hold a public hearing thereon, with notice given as provided in Section 7.8.4 hereof. Following the public hearing, the planning commission shall within a reasonable time vote to (1) recommend to the governing body that the application be approved or approved as modified or (2) deny it.

(e) If the planning commission votes to deny an application or to modify it in a manner not acceptable to the applicant, as provided under paragraph (c) hereof, the applicant may within 15 days appeal the planning commission's action to the governing body.

(f) In the event of such appeal, the governing body may return the application to the planning commission for further study and report, return the application to the planning commission for public hearing, or deny it.

(g) If after public hearing the planning commission votes to deny an application the applicant may within 15 days appeal the planning commission's action to the governing body.

(h) In the event of such appeal, the governing body may approve the application, return it to the planning commission for further study and report, or deny it. If the application is returned to the planning commission, the governing body may hereafter recall it and approve it or deny it.

(i) Before approving an application for a zoning map amendment which does not conform with the planning commission's recommendation thereof, the governing body shall hold a public hearing hereon as provided below; such public hearing shall be held subsequent to receipt of the planning commission's recommendation on the application.

(j) Each application to the commission shall include a list of names, with their addresses, of all owners of record of property within 300 feet of the affected property. This list of names shall be a certified list and if found to be incorrect may be grounds for the commission to deny the application.

7.8.4 Notice of Hearing

(a) Time of Notice: In all cases where notice is required, it shall be given at least 20 days before the date of the hearing.

(b) Type of Notice Required:

(1) In the case of an application for a zoning map amendment, all of the following means shall be used for giving notice:

- a. publication in a newspaper of general circulation in the City;
- b. mailing written notice to all owners of property within a 300-foot radius of the exterior boundary of the subject property; and

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c. posting on the property of a sign whose dimensions, design, content, and location shall conform with specifications established by the planning commission.

(2) In the case of an application for amending the text of the zoning regulations, but not the zoning map, notice shall be given by publication in a newspaper of general circulation in the City.

(c) Content of Notice:

(1) In all cases, the required notice shall contain the date, time, and place of the hearing.

(2) In the case of an application for a zoning map amendment, the required notice of each type shall contain the present zoning classification of the property and the classification sought by the applicant.

(3) In the case of the required published notice and mailed notice, the notice shall also contain:

a. legal description of the property, and

b. the street address or approximate location in the municipality.

(d) Responsibility for Giving Notice: Responsibility for giving proper and timely notice and paying all costs thereof shall be that of the applicant.

7.8.5 Filing of Approved Amendments

After approval of any amendment to these regulations, the Clerk shall file the amendment in his office, and the Inspecting Officer shall (a) enter the amendment in a register maintained for that purpose and (b) change the official zoning map, in the case of a map amendment. No map amendment shall be effective unless and until it is entered on the official zoning map. As a prerequisite to entering a zoning amendment on the official zoning map, the Inspecting Officer may require the applicant to provide an accurate map of the zoning boundaries as revised, drawn to the scale of the official zoning map. The Inspecting Officer shall, in the case of each approved amendment, enter into the files of the planning commission maps showing the zoning district boundaries of the subject property both prior to and as a result of the amendment.

7.8.6 Effect of Protest

Protests against a proposed change shall be filed at least three days before the date of any public hearing thereon.

If protests are filed by:

1. the owners of 20 percent or more of the area of the lots included in the proposed change, or
2. the owners of 50 percent or more of the area of the lots within a 300-foot radius of the exterior boundary of the territory included in a proposed change.

The proposed change or amendment shall then not become effective except by the favorable vote of three-fourths of all the members of the municipal governing body where there are more than seven members in the governing body and by three-fifths favorable vote where there are seven or fewer members in the governing body.

7.8.7 Failure of the Planning Commission to Act

If the planning commission fails to make an investigation and report on a proposed amendment referred to it within a period of 45 days, such failure shall be considered a refusal to approve the proposed amendment and the governing body shall be under no obligation to wait longer for reports or recommendations thereon.

Section 7.9 Classification of Certain Areas

7.9.1 Classification of Annexed Areas

(a) All territory that is annexed to the municipality after the effective date of these regulations, if it has prior thereto been zoned by the County, shall thereupon be placed in the same or most nearly corresponding zoning district classification under these regulations until otherwise classified by amendment of these regulations.

(b) All territory that is annexed to the municipality, after the effective date of these regulations, if it has not prior thereto been zoned by the County, shall be an AR Agricultural District, unless otherwise classified at the time of annexation by the governing body.

7.9.2 Classification of Undesignated Areas

In the event there is an area on the zoning map for which the zoning district classification is not shown, such area shall be classified as an AR District until reclassified by the governing body.