

ARTICLE 16

ADMINISTRATIVE PROCEDURE AND ENFORCEMENT

Section 1601 Hutchinson County Zoning Administrator

An administrative official who shall be known as the Zoning Administrator and who shall be designated by the Hutchinson County Commission shall administer and enforce this ordinance. They may be provided with the assistance of such other persons as the County Commission may direct.

If the Zoning Administrator shall find that any of the provisions of this ordinance are being violated, they shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. They 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 the ordinance to insure compliance with or to prevent violation to its provisions.

Section 1603 Right of Entry

Whenever necessary to make an inspection to enforce any of the provisions of this ordinance, or whenever the Zoning Administrator or an authorized representative has reasonable cause to believe that there exists in any building or upon any premises an ordinance violation, the Zoning Administrator or an authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Zoning Administrator by this ordinance, provided that if such building or premises be occupied, they shall first present proper credentials and request entry; and if such building or premises be unoccupied, they shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the Zoning Administrator or an authorized representative shall have recourse to every remedy provided by law to secure entry.

When the Zoning Administrator or an authorized representative shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Zoning Administrator or an authorized representative for the purpose of inspection and examination pursuant to this ordinance.

Section 1605 Hutchinson County Planning Commission

The Hutchinson County Commission shall appoint a Planning Commission of five (5) or more members, the total membership of which shall be an uneven number and at least one (1) member of which shall be a County Commissioner. The term of each of the appointed members of the Planning Commission shall be for three (3) to five (5) years. When the Planning Commission is first appointed the lengths of the terms shall be varied so that no more than one-third (1/3) of the terms shall expire in the same year. Meetings shall be regularly scheduled and held at the call of the Chairman, at such other times as the Planning Commission may determine. The Chairman, or in their absence, the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public, except as provided by SDCL 1-25-5.

Upon notification of a proposed revision, modification, change, or amendment to the zoning ordinance or any part thereof the Planning Commission shall schedule a public hearing. Notice of the time and place

of the hearing shall be given pursuant to Section 1803 (3-5). Any person may appear and request or protest the proposed change. The Commission shall discuss the application and formulate a recommended action. The recommendation should be in the form of a motion clearly stating the Commission's recommend action. The Commission shall forward its recommendation to the County Commission at least ten (10) days in advance of the County Commission meeting at which the action is being considered.

The Planning Commission shall keep a record of all proceedings, including minutes showing the vote of each member upon each question, or if absent or failure to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed with the Zoning Administrator. Meetings shall be regularly scheduled and held at the call of the Chairman, at such other times as the Planning Commission may determine, but in no event, shall the Commission meet less than once every three (3) months. The Chairperson, or in their absence, the acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The Planning Commission shall adopt from time to time, subject to the approval of the County Commission, rules and regulations as it may deem necessary for the conduct of its affairs and to carry the appropriate provisions of this ordinance into effect.

Section 1607 Hutchinson County Board of Adjustment

The Hutchinson County Planning Commission shall serve as the Board of Adjustment. The Board of Adjustment is hereby designated to hear all requests for variances, conditional uses, and zoning appeals. The Board of Adjustment may, in specific cases to avoid unwarranted hardship which constitutes an unreasonable deprivation of use as distinguished from the mere grant of a privilege, make upon an affirmative vote of two-thirds (2/3) of the full membership of the Board of Adjustment, conditional uses or grant variances to the terms of the regulations or controls, subject to appropriate conditions or safeguards being adopted by the County Commission.

The County Commission shall designate a secretary to attend and take minutes for the Board of Adjustment when acting in zoning cases, but shall take no part in the deliberations. Meetings of the Board of Adjustment acting in zoning cases shall be held at the call of the Chairperson and at such other times as the Board shall determine. Such Chairperson, or in his/her absence, the acting Chairperson, may administer oaths and compel the attendance of witnesses.

Section 1609 Hutchinson County Commission

The Hutchinson County Commission may amend, supplement, change, modify, or repeal any regulation, restriction, boundary, or enforcement provision established in the comprehensive plan or adjuncts thereto. The County Commission shall forward a copy of the proposed changes to the Planning Commission for public review. Upon receipt of the comments from the Planning Commission the County Commission shall publish a notice of public hearing once a week for two successive weeks in a newspaper of general circulation in the area affected. The County Commission shall thereafter either adopt or reject such amendment, supplement, change, modification, or repeal. If adopted the County Commission shall direct the Planning Commission to prepare a summary of the action. Upon completion of the summary the states attorney shall review same and direct the County Auditor to have said summary published once in the official newspaper.

Section 1611 Building Permits Required

No building or other structure shall be erected, moved, added to, or use changed without a permit issued by the Zoning Administrator. No building permit shall be issued by the Zoning Administrator except in conformity with the provisions of this ordinance unless they received a written order from the Board of Adjustment in the form of an administrative review, conditional use, or variance as provided by this ordinance.

Section 1613 Application for Building Permit

All applications for building permits must be signed or approved in writing by the owner of record. In the event the owner of record has a binding purchase agreement contingent on the approval of the building permit, the potential purchaser may submit and sign all documents required for application. All building permit applications shall be accompanied by a site plan.

The site development plan shall be drawn to scale and indicate the following:

1. Location and topography of the proposed structure(s), including adjacent property owners and proximity to federal, state highways, and to county, township or city roads;
2. A north arrow;
3. The actual dimensions and shape of the lot to be built upon;
4. The exact sizes and locations on the lot of buildings already existing, if any, and the location and dimensions of the proposed building or alteration;
5. Property lines and square footage of the proposed structure(s);
6. Location and dimensions of all easements and right-of-ways;
7. General street and pedestrian walkway plan;
8. General utility, water, and sewer plan with proximity and proposed connection to municipal utilities; and
9. Site drainage plan and development impact on culverts, etc.

Refer to document entitled Site Plan Requirements for a detailed example of site plan requirements.

The application shall include such other information as may be lawfully required by the Zoning Administrator, including: existing or proposed building or alterations; existing or proposed uses of the building and land; the number of families, housekeeping units, rental units, or animal units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of, this ordinance.

One copy of the plans shall be returned to the applicant by the Zoning Administrator after they shall have marked such copy either as approved or disapproved and attested to same by their signature on such copy. If a building permit is refused, the Zoning Administrator shall state the reasons for such refusal in writing. The original and one copy of the plans, similarly marked, shall be retained by the Zoning Administrator. The issuance of a building permit, shall, in no case, be construed as waiving any provisions of this ordinance.

Section 1615 Expiration of Building Permits, Conditional Uses, and Variances

If the work described in any building permit, conditional use, or variance has not begun within one hundred and eighty (180) days or has not been substantially completed within two (2) years of the date of issuance thereof, said permit shall expire; it shall be canceled by the Zoning Administrator and written notice thereof shall be given to the persons affected. The notice shall state that further work as described in the canceled permit shall not proceed unless, and until, a new building permit has been obtained.

Section 1617 Construction and Use to be as Provided in Application, Plans, Permits, and Application for Zoning Compliance

Building permits issued on the basis of plans and applications approved by the Zoning Administrator 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 this ordinance, and punishable as provided by Section 2203 of this ordinance.

Section 1619 Application for Zoning Compliance

The applicant shall submit to the Zoning Administrator, an application for zoning compliance, within thirty (30) days after the building or structure has been completed or substantially completed. Thereafter, the Zoning Administrator may visually inspect the building or structure and its use to determine whether it is in compliance with this ordinance. After the approval by the Zoning Administrator, the application for zoning compliance shall be signed and dated by the Zoning Administrator.

Section 1621 Schedule of Fees, Charges, and Expenses

The County Commission shall establish a schedule of fees, charges, and expenses and a collection procedure for building permits, certificates of zoning compliance, variances, conditional uses, amendments, appeals and other matters pertaining to this ordinance. The schedule of fees shall be posted in the office of the Zoning Administrator and may be altered or amended only by the Hutchinson County Commission. Until all application fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

Section 1623 Building Permit in a Conspicuous Place

All building permits issued by the Zoning Administrator must be placed in a conspicuous location on the building site for the duration of the construction of work described.

Section 1625 Bad Actor Legislation

The Hutchinson County Commission may reject an application for any permit filed for a variance, conditional use or otherwise for the reasons and on the grounds set forth in SDCL 1-40-27, as revised and amended. Such rejection shall be based upon a specific finding by the Commission that the applicant has engaged in the activity identified in the aforesaid statute. The burden on the Commission to make the specific finding provided for herein shall be by a preponderance of the evidence.