

**City of Stanley
Work Session
February 24, 2014**

The work session convened at 1:09 p.m. in the Stanley City Office.

IN ATTENDANCE FOR THE CITY:

Mayor Herb Mumford, Council President Steve Botti, Councilmember Melinda Hadzor, Councilmember Laurii Gadwa, Councilmember Lem Sentz.

OTHER ATTENDEES:

Jim Wetzel

BUILDING PERMIT:

Stanley Municipal code Title 15, discussion of Building Permits:

Council President Botti comments the main reason to have this meeting is at the last meeting we did not discuss the attorney's revisions and also to discuss some of the provisions people had rejections to.

Page 3, Review: Council President Botti comments the City Clerk or whomever we designate would approve permits that clearly conform to all requirements of the city code. Group discussed the process of an appeal of a denied permit. Council President Botti continues to say, that the applicant would really have no reason to appeal if they were approved, but the city attorney pointed out that other individuals could appeal if they felt they were going to be adversely affected by the permit. Another consideration is when the appeal process is in progress, there would be no delay in construction, and the applicant would proceed at their own risk. Mayor Mumford commented the concept is that they "proceed at their own risk", seems like there should be some warning here. There needs to be wording in there telling the applicant they would proceed at their own risk and are responsible for continuing construction during the appeal process. Council President Botti suggested also, when we establish a time, date and place of a hearing we should notify applicant and the affected parties, so everyone is aware of the process.

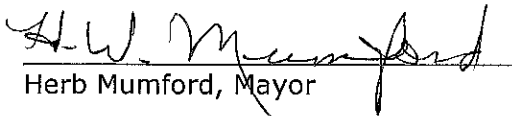
Page 4, Misdemeanors: The attorney supplied wording for what is a misdemeanor, and also for failure to obey a citation for misdemeanor. The group discussed this wording. Council President Botti points out this is standard language used by the state and this is what the Council asked the attorney to do. Jim Wetzel asked, so are you maintaining building permit violations as a misdemeanor? Councilmember Gadwa says, "not necessarily", were leaving it until we do an omnibus ordinance, which will change violation penalties in a variety of ordinances and may change this one. Council President Botti reminds everyone if applicant fails to respond within 10 days then it will be a misdemeanor, this gives the applicant a way out by responding within the time frame. The group decided F needs to be part of A which clarifies the misdemeanor process better.


Page 1, Required: "Structure alterations subject to permitting shall include any changes to load bearing walls or the building footprint", group decided to take out "load bearing walls" leaving the rest of the sentence the same.

Page 1, Required: Requirements for engineering certification for new commercial construction. Council President Botti comments this would add about 5% to the construction cost. Mayor Mumford also comments: "Is this requirement redundant?" "Does it already exist in state law?" Council President Botti replied no, this is done in many small towns and rural counties in Idaho. Jim Wetzel can't see needing an engineering certification stamp; they already have architecture drawings. Council President Botti has received some public feedback that residents are concerned that we need engineering certification for quality control. Another point of view is affordable housing; causing problems of substandard construction; we need to have a good balance here. Councilmember Gadwa points out that good engineering practices is only referring to fill compaction, it needs to refer to the construction itself. Group agrees that it needs to say good engineering and architectural practices relating to the construction of new commercial and public buildings. Jim Wetzel thinks city is trying to take on too much responsibility. The group then discussed the issuance of a building permit by the city does not guarantee the suitability of the buildings and the safety. Group decided to add the word safety: "the issuance of a building permit by the city does not imply or guarantee the safety, suitability, or structural adequacy of buildings, building pads, retaining wall, fill, or natural terrain for meeting structural support requirements for buildings."

ADJOURNMENT:

Mayor Mumford adjourns the meeting at 2:24 p.m.


Herb Mumford, Mayor

ATTEST:

City Clerk, Cari Tassano

Noted attachments follow:

Draft of Building Permit



APPROVED

Draft

ORIGINAL IN RED

ORDINANCE NO.
BUILDING PERMITS

AN ORDINANCE OF THE CITY OF STANLEY, CUSTER COUNTY, IDAHO:

AMENDING TITLE 15, CHAPTER 15.04: BUILDING PERMITS, DEFINING STRUCTURAL ALTERATIONS THAT REQUIRE A PERMIT, LISTING ACTIONS EXEMPT FROM A PERMIT, REQUIRING ENGINEERING CERTIFICATION FOR PUBLIC AND COMMERCIAL BUILDINGS, REQUIRING CITY APPROVAL FOR CONSTRUCTION CHANGES DURING THE PERMIT TERM, SPECIFYING COORDINATION REQUIREMENTS FOR PROJECTS REQUIRING PERMITS OR APPROVALS FROM MULTIPLE ENTITIES, CLARIFYING REQUIREMENTS FOR PERMIT APPROVAL BY THE CITY'S AUTHORIZED REPRESENTATIVE, CLARIFYING PENALTY PROVISIONS, AND CHANGING THE TERM OF A PERMIT

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF STANLEY, IDAHO, AS FOLLOWS

SECTION:

- 15.04.010: Required
- 15.04.020: Application
- 15.04.030: Council Shall Act
- 15.04.040: Review
- 15.04.050: Enforcement
- 15.04.060: Term, Expiration and Renewal

15.04.010: REQUIRED: No building shall be constructed, erected, or altered structurally, nor shall any lot be excavated for sidewalks, sewer, water, septic tanks, roads, or any other purpose, nor shall fill be placed on any lot, nor shall any lot be cleared, or fenced unless a building permit therefore has been issued by the city council or its authorized representative. Structural alterations subject to permitting shall include any changes to load-bearing walls or the building footprint) or changes to the exterior appearance of the structure that are subject to the building appearance and materials requirements covered in Title 17 of the Stanley municipal code. Actions exempt from the building permit process include gardening and raised garden boxes, ground-level patios, maintenance and repair on existing roads and driveways, movable storage sheds less than 150 square feet that comply with zoning and building appearance regulations, fence replacement or maintenance if construction is substantially the same as the current fence and otherwise meets requirements of the Stanley Municipal Code, landscaping that does not substantially alter the terrain, sprinkler systems, and playground equipment that is moveable and not permanently anchored. The issuance of a building permit by the city does not imply or guarantee the suitability or structural adequacy of building pads, retaining walls, fill, or natural terrain for meeting structural support requirements for buildings. Permittee shall follow good engineering practices relating to fill compaction for structural support and for preventing collapse and/or erosion of fill not used for structural support. The design of all new commercial

and public buildings, including the expansion of the footprint of existing commercial and public buildings, shall be stamped and certified by a registered professional engineer or architect licensed in the State of Idaho to perform architectural and engineering designs. Interior renovations to existing buildings shall be exempt from these requirements. Provided, however, no building permit shall be necessary for repairs to previously installed utility lines such as telephone, sewer, or water; said repairs shall be limited to restoration of the line to proper working condition and shall not include any expansion or extension of said lines. All permits shall issue only in conformity herewith and shall be valid only for a period of one year thereafter. Changes to the proposed use or construction specified in the original approved permit that occur during the term of the permit shall require approval by the City of Stanley. Prior to initiating such changes, the applicant may be required by the City Council to submit an amended application for review and approval. Building permit fee costs shall be established by city council resolution.

15.04.020: APPLICATION: Applications for building permits shall be submitted in the form specified by resolution of the city council and shall be accompanied by the application fee, a drawing showing the location of the proposed project on the applicant's property and the location of the property in the city, building plans and specifications, and proof of approval of the proposed project by the appropriate fire department and the appropriate sewer district or state health department. Applications which do not contain all of the foregoing shall not be considered complete. Development and construction drawings and technical support material shall be to scale or otherwise in sufficient detail to allow a technical or engineering review to determine the project's effects and impacts on adjacent properties and whether the proposed development complies with all zoning requirements. Applicant is responsible for obtaining required permits and approvals from all Federal, State and local agencies and departments with jurisdiction covering the proposed building permit actions.

- A. Multi-family dwellings shall require a plan for permanently maintained off-street parking. This plan shall provide for a minimum of one parking space for each living unit, and will use a formula that will allow for seventy percent (70%) of the parking lot to be used for parking and circulation, and the remaining thirty percent (30%) of the parking lot space to be used for snow storage.
- B. Multi-family dwellings shall require a site plan showing all existing and proposed buildings and outbuildings, as well as the proposed number of parking spaces to be constructed, showing snow storage areas, and showing entrances and exists to public streets (Ord. 184, 2-10-2011).

15.04.030: COUNCIL SHALL ACT: The city council shall act upon all applications for building permits within a reasonable time following the completion of the application, considering the complexity of the proposed project. In no event shall the council be required to act prior to the thirtieth day following submission of a complete application for a building permit, however, the council may act within the thirty (30) day period if it so desires and if action within that period can be reasonably taken. The Council may approve a building permit application contingent upon the applicant obtaining required permits and approvals from all Federal, State and local agencies and departments with jurisdiction covering the proposed building permit actions. By resolution, the council may designate an authorized representative to act upon all building permit applications that, in the representative's judgment, clearly comply

with all building and zoning requirements of the Stanley Municipal Code. The Council's representative may, for any specified reason, request that the city council review and act upon any building permit application, and the Council may, at its discretion, choose to act on any application.

15.04.040: REVIEW: Any person adversely affected by the issuance or denial of a building permit by the City Council's authorized representative may appeal the administrative decision to the City Council by filing a notice of appeal with the City Clerk within ten days from the date of the administrative issuance or denial of the building permit.

A. The city shall fix and establish a time, date, and place of hearing within fifteen (15) days from the date of the receipt of notice and cause a copy of the notice of hearing to be mailed to the appealing parties. At the hearing the Council may, by a majority vote, affirm, annul, or modify the action of the city. If the actions of the city are modified or annulled, a permit shall be issued accordingly.

B. Appeal Procedure. The Council may receive all evidence on appeal, in accordance with the following procedure:

1. The Council's authorized representative shall present background information on the project in question, including relevant code sections and their interpretation. The Council may ask questions during or after each presentation.

2. The applicant shall be allowed to present any information or applicable code sections to support a reversal of the authorized representative's decision. The applicant shall have up to twenty (20) minutes to present such evidence.

3. The chair shall open the hearing to receive public testimony. Each person wishing to provide public testimony shall be given up to five (5) minutes to do so.

4. Following the close of public testimony, the authorized representative shall be allowed up to ten (10) minutes for rebuttal.

5. The applicant then shall have up to ten (10) minutes for rebuttal and any final comments.

6. The chair may allocate equivalent additional time to the applicant and the authorized representative if the clarity of the issue at hand can be enhanced by receiving additional testimony.

7. Thereafter, the Council may deliberate and render a final decision by a roll call vote, may request more information before a final decision is made, or may take the matter under advisement and reconvene at a reasonable time not to exceed fifteen (15) days to make their final decision. The final decision shall be in writing and a copy provided to the applicant and any parties of record.

C. An applicant denied a permit or aggrieved by a decision of the city council may seek judicial review under the procedures provided by Idaho Code and any amendments thereto. (Ord. 184, 2-10-2011).

15.04.050: ENFORCEMENT: No owner or agent of owner shall construct, use or occupy any building, structure or improvement upon real property in violation of this chapter. The landowner, tenant, subdivider, builder, or any other person who commits, allows, participates in,

or maintains such a violation, shall be found guilty of such a violation. The provisions of this chapter shall be enforced in the following manner :

A. A violation of this chapter ~~(shall be a misdemeanor punishable by a fine of not to exceed one hundred dollars (\$100.00), or imprisonment in the county jail for a period not to exceed six months, or both, .~~ Any person convicted of a violation of this Title, without regard to the form of the judgment, shall be subject to fine and or imprisonment up to but not exceeding the maximum penalties set forth in sections 18-113 and 50-302. Idaho Code, as may from time to time be amended and or retitled. Either or both such fine and imprisonment may be imposed; and in addition thereto, any person so convicted shall pay costs as the court may assess. Each day that a violation continues from the date of its creation or initiation shall constitute a separate criminal offense.

B. Failure To Obey Citation For Misdemeanor:

1. In addition to the aforementioned penalties provided herein, it shall be unlawful for any person to fail to appear in court at the time promised on a misdemeanor citation or to fail to appear at the time indicated on a misdemeanor citation served upon the defendant or to fail to appear at the time indicated on a misdemeanor summons served upon the defendant, regardless of the disposition of the underlying charge upon which such citation or summons was originally issued.

2. The duty to appear in court at the time indicated in a misdemeanor citation or summons may be complied with by an appearance by counsel in the manner prescribed by rule of the Supreme Court.

3. Violation of the provisions of this subsection shall be a misdemeanor.

C. In addition to the foregoing, appropriate actions and proceedings may be taken at law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation, to prevent illegal occupancy of a building, structure, or premises, and these remedies shall be in addition to the penalties described above.

D. Nothing herein shall be construed as preventing any private citizen from pursuing any available civil remedy for the prevention of any activity which constitutes a violation of this chapter.

E. The mayor, the building inspector or their duly authorized representative are hereby empowered to cause any building, other structure or tract of land to be inspected and examined, and to order in writing the remedy of any condition found to exist therein or any threatened violation of any provision of this chapter; said order may include a requirement that all work on the project cease immediately until the condition has been remedied. After any such order has been served, no work shall proceed on any building, other structure or tract of land covered by such order, except to correct or comply with such order. Service of such order shall be deemed complete for all purposes upon posting the notice upon the subject property and mailing of the notice to the permittee at the address shown on the building permit application or by personnel service as set forth below.

- F. A person shall be guilty of a misdemeanor in any case where:
 1. Any violation of any of the provisions of this chapter exists in any building or in any other structure or on a tract of land; and
 2. An order to remove any such violation has been served upon the owner, general agent, lessee or tenant of the building, other structure or tract of land (or any part thereof) or upon the architect, builder, contractor or any other person who commits or assists in any such violation; and
 3. Such persons shall fail to comply with such order within ten (10) days after service thereof.

G. In addition to any of the foregoing remedies, the city attorney, acting on behalf of the city may file an appropriate action to restrain any violation of this chapter.

~~H. Any person, firm or corporation violating any provision of this chapter, upon conviction thereof, shall be fined not more than one hundred dollars (\$100.00) for each offense or by imprisonment in the county jail for a period of not more than thirty (30) days or by both such fine and imprisonment. Each day during which the illegal erection, construction, alteration, maintenance or use continues may be deemed a separate offense.~~

~~G. H.~~ This chapter shall not be construed to hold the city of Stanley responsible for any damage to persons or property by reason of the inspection or reinspection authorized herein or failure to inspect or reinspect or by reason of issuing a building permit as herein provided (Ord. 184,2-10-2011).

15.04.060: TERM, and EXPIRATION AND RENEWAL: Building permits shall be valid for a period of twenty-four (24) twelve (12) months from the effective date of the permit approved start date, except that commercial construction of over ten thousand (10,000) square feet may be issued a building permit for up to three (3) years. All exterior construction work on the permitted project must be completed within the term of the building permit, or the applicant shall apply for a new permit. Permit applications must identify the ultimate construction objective of the building project. Individual permits shall not be issued for incremental phases of a building project. The start date of the permit may not be more than six months from the application date. Actual start of construction, repair, reconstruction, placement, or other improvement must occur within one hundred and eighty (180) days of approved start date or the permit will be revoked and a new permit must be applied for. The actual start of construction for projects involving building construction or alteration means either the initiation of a permanent structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of fill or excavation; or the placement of a manufactured home on a foundation. The actual start of construction for projects involving building construction or alteration does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets, roads, and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms.

A. (Deleted)

B. (Deleted)

~~C.A. All building permits which are unexpired and in full force and effect at the time of the passage of this chapter shall be reissued as a new permit under this chapter, with the right to all renewals provided herein, provided the permittee files an application for such reissuance in writing with the city clerk prior to the expiration date of the existing permit and concurrently pays any reissuance fee established by the council. subject to the original terms of issuance.~~

~~D.B. The council may, from time to time establish the fees contemplated herein by resolution (Ord. 184, 2-10-2011). Building permit fee costs shall be established by city council resolution.~~