

**AN ORDINANCE AMENDING THE CODE ENFORCEMENT APPEAL PROCEDURE BY REPEALING CHAPTER 8.01 OF THE RAPID CITY MUNICIPAL CODE, ADOPTING SECTION 2.24.065 OF THE RAPID CITY MUNICIPAL CODE, AND AMENDING SECTIONS 2.24.020, 8.16.050, 10.56.060, AND 10.56.065 OF THE RAPID CITY MUNICIPAL CODE**

WHEREAS, the Code Enforcement Board of Appeals was established in 2012 to hear appeals from a variety of Code Enforcement decisions, and

WHEREAS, since its inception, the Board has rarely had occasion to meet, as timely appeals meeting the criteria for appeal are rarely filed; and

WHEREAS, the City is grateful to the members who have served with distinction, but is also mindful of the value of Board members' time; and

WHEREAS, the City's Community Resources Director currently handles Code Enforcement appeals informally;

NOW, THEREFORE, BE IT ORDAINED, by the City of Rapid City that Chapter 8.01 of the Rapid City Municipal Code is hereby repealed in its entirety.

**~~8.01.010 Creation.~~**

~~—The establishment of the Rapid City Code Enforcement Board of Appeals, hereafter referred to as the CEBA, is authorized.~~

**~~8.01.020 Purpose, function, and jurisdiction.~~**

~~—A. The CEBA shall preside over and hear appeals filed with it concerning determinations made by the City of Rapid City Code Enforcement Division. The CEBA shall hear appeals from persons cited for code enforcement violations issued and regulated under the current codes adopted by the City of Rapid City, except that the CEBA shall not have jurisdiction to hear any of the following:~~

~~—1. Rapid City Municipal Code violations issued by the Rapid City Police Department, or any of its officers;~~

~~—2. Code Enforcement Division determinations under chapters 15 and 17 of this Code;~~

~~—3. Matters regarding City assessment(s) levied upon any property; and~~

~~—4. Code Enforcement action taken to prevent any imminent threat or danger to the public welfare, health, and safety.~~

~~—The CEBA shall have jurisdiction to hear appeals from Code Enforcement actions including but not limited to determinations of nuisance, noxious weeds, and abatement. The CEBA shall render its decision on any such appeal, and may affirm, modify, or reverse the Code Enforcement determination at issue. All decisions of the CEBA are final.~~

~~—B. The CEBA shall further have jurisdiction to hear citizen complaints related to alleged violations under this Code, provided the following requirements are met:~~

~~—1. The alleged code violation complained of falls under one or more of the code sections for which the CEBA has jurisdiction, as enumerated above; and~~

~~2. The complaint is made in writing to the Community Resources Director, or his or her designee, and outlines the then existing facts and circumstances that give rise to the alleged code violation.~~

~~—Provided the foregoing requirements have been met, within 5 business days from the date the written complaint is received, the Community Resources Director, or his or her designee, will make a determination regarding such citizen conveyed code violation allegations, and may, in his or her discretion, determine the allegations warrant any of the following: Code Enforcement Division investigation and/or citation(s); a CEBA hearing; or no action. The decision of the Community Resources Director, or his or her designee, is final.~~

~~—C. The CEBA may also provide advice and make recommendations regarding code enforcement related issues for the Common Council's consideration.~~

~~—D. The Board shall not have the authority to waive any requirements of federal, state or local law. The Board may make inquiries as it deems expedient.~~

#### **~~8.01.030 Membership requirements.~~**

~~—A. The CEBA shall consist of 5 members and 2 alternates appointed by the Mayor and confirmed by the Common Council, and shall consist of one or more member(s) and alternate(s) appointed from the following groups and associations:~~

~~—1. Multi housing Rental Managers Association;~~

~~—2. Single family rental management;~~

~~—3. Any Rapid City neighborhood watch organization;~~

~~—4. Rapid City Beautification Committee;~~

~~—5. City of Rapid City Planning Commission;~~

~~—6. Any one of the Building Code boards, including but not limited to the Development Appeals and Review Board;~~

~~—7. Scenic Rapid City;~~

~~—8. Destination Rapid City; or~~

~~—9. Citizens of Rapid City as members at large.~~

~~B. Initially, three members shall be appointed for terms of 1 year, two members for terms of 2 years, and two members for terms of 3 years; thereafter, all terms shall be for 3 years and vacancies shall be filled for the unexpired term only. No CEBA member may serve on the board for more than 2 consecutive terms. Each member shall be a citizen of Rapid City. No current city employee, elected city official or paid city consultant shall be allowed to serve as a voting~~

~~member of the CEBA. The CEBA shall adopt bylaws and shall elect from among its membership a Chairperson and a Vice Chairperson, who shall be entitled to vote.~~

~~—C. If not otherwise prevented under federal, state, or local law, nothing in this section shall be construed as precluding a member or alternate serving on the CEBA from serving on any other City board, commission, or committee.~~

#### **~~8.01.040 Conduct of meetings, quorum.~~**

~~—A. The CEBA shall prescribe rules for the conduct of its affairs, and shall meet at the call of the Chairperson, and at such other times as the CEBA may determine, at a fixed time and place. All meetings of the CEBA shall be open to the public. Four members of the CEBA shall constitute a quorum for the transaction of business, and an affirmative vote of the majority of the members of the CEBA shall be required to authorize any action or determination of the Board. The CEBA shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its official actions, all of which shall be a public record. It shall have the power to call on any of the city departments for assistance in the performance of its duties, and it shall be the duty of such city departments to render all such assistance as may be reasonably required.~~

~~—B. The alternate members should attend every meeting as though they were regular members of the CEBA. 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.~~

#### **~~8.01.050 Procedure to Appeal.~~**

~~—Any appeal stemming from a determination made by the City of Rapid City Code Enforcement Division, concerning Rapid City Municipal Code violations within the jurisdiction of the CEBA may be taken to the Board upon written notice served upon the Manager of the Code Enforcement Division, or his or her designee. The appeal must be served within 5 calendar days of the date of the decision or action appealed, excluding the date of mailing. The Chairperson of the Board shall give notice to all interested parties, including the Code Enforcement Manager and Community Resources Director, and shall convene the Board to hear the appeal within 10 calendar days of receipt of the notice of appeal, excluding the day of receipt.~~

#### **~~8.01.060 Stay of enforcement.~~**

~~—Appeals of notice and orders, other than those posing an imminent threat or danger to the public welfare, health, and safety, shall stay the enforcement of the notice and order until the appeal is heard by the CEBA. However, nothing in this chapter shall be construed as effecting a stay on any criminal or civil action brought by the city for violation(s) of the Rapid City Municipal Code.~~

#### **~~8.01.070 Place of hearing.~~**

~~—Any hearing or deliberation conducted by the CEBA may be held at such city facilities as may be made available.~~

~~**8.01.080 Determinations.**~~

~~—The determinations, proposals and recommendations of the CEBA shall be made upon the majority vote of its members. In the event of a tie, the appeal, proposal or recommendation at issue shall fail.~~

~~**8.01.090 Remuneration.**~~

~~—The CEBA shall consist of volunteers who shall not be entitled to any remuneration for their services as members of the Board. However, the Board may, at the discretion of the Common Council, be reimbursed for its reasonable and actual out of pocket expenses incurred in furtherance of its purposes and functions as outlined above. Requests for remuneration of the expenses shall be made in advance, in writing, and submitted to the Finance Officer, who shall present such requests to the Council.~~

FURTHER, BE IT ORDAINED, by the City of Rapid City that Section 2.24.065 is hereby adopted and Sections 2.24.020, 8.16.050, 10.56.060, and 10.56.065 of the Rapid City Municipal Code are hereby amended as follows:

**2.24.020 Office of the Director created.**

A. There is hereby created the Office of the Director of Community 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 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; ~~and~~

10. Hear appeals of Code Enforcement Division determinations, pursuant to § 2.24.065 of this Code; and

~~1011.~~ Other duties as assigned.

### **2.24.065 Code Enforcement Appeals**

Any determination made by the City of Rapid City Code Enforcement Division concerning Rapid City Municipal Code violations may be appealed to the Community Resources Director. Written notice of any such appeal shall be submitted to the Community Resources Director, or his or her designee, 300 6<sup>th</sup> Street, Rapid City, SD 57701. The appeal must be served within 10 calendar days of the date of the decision or action appealed, excluding the date of mailing. The Community Resources Director shall hear the appeal within 10 calendar days of receipt of the notice of appeal, excluding the day of receipt.

Within 10 calendar days from the date the appeal is heard, the Community Resources Director, or his or her designee, will make a written determination regarding the appeal. The decision of the Community Resources Director, or his or her designee, may be appealed to the Common Council.

### **8.16.050 Appeals.**

Any order issued by code enforcement pursuant to the terms of §§ 8.16.010 through 8.16.040, may be appealed to the ~~Code Enforcement Board of Appeals~~Community Resources Director, in writing, and within 5-10 calendar days of the decision or action being appealed, excluding the date of mailing. Such written notice of appeals shall be submitted to the ~~Manager of the Code Enforcement Division~~Community Resources Director, or his or her designee, 300 6th Street, Rapid City, South Dakota, 57701. Appeals shall be taken up by the ~~Code Enforcement Board of Appeals~~Community Resources Director in accordance with the provisions of § 2.24.065 Chapter 8.01 of this Code.

### **10.56.060 Presence on private property–Notice to remove.**

Whenever it comes to the attention of the police department or ordinance enforcement that any person has an abandoned or junk motor vehicle on his property, a notice in writing shall be served by first class mail to the record owner of the property and such other of the persons referenced in § 10.56.050 as can be ascertained, ordering the removal of such motor vehicle in the time specified in this chapter. The notice shall be deemed complete upon mailing to the last known address of the record owner. The notice shall contain the request for removal within 15 days after the mailing of such notice, and the notice shall state that failure to comply with the notice to remove shall be a violation of this chapter. The recipient of such notice shall have 5-10 calendar days from the date of the decision or action being appealed, excluding the date of mailing. The notice of appeal must be in writing and filed with the ~~Manager of the Code Enforcement Division~~Community Resources Director, or his or her designee. All appeals shall

be heard and decided by the ~~Code Enforcement Board of Appeals~~Community Resources Director, in conformance with ~~§ 2.24.065~~Chapter 8.01 of the Rapid City Municipal Code.

### **10.56.065 Appeals.**

Any order issued by code enforcement pursuant to §§ 10.56.050 through 10.56.080, may be appealed to the ~~Code Enforcement Board of Appeals~~Community Resources Director, in writing, and within ~~5~~10 calendar days of the date of the decision or action being appealed, excluding the date of mailing. Such written notice of appeal shall be submitted to the ~~Manager of the Code Enforcement Division~~Community Resources Director, or his or her designee, 300 6th Street, Rapid City, South Dakota, 57701. Appeals shall be taken up by the ~~Code Enforcement Board of Appeals~~Community Resources Director in accordance with the provisions of ~~§ 2.24.065~~Chapter 8.01 of this Code.