CITY OF RAPID CITY

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MEMORANDUM

TO: Common Council

FROM: Allison Marsland, Assistant City Attorney

DATE: April 27, 2012

RE: Code Enforcement Board of Appeals and the Attendant Ordinance Amendments

Before the Council is a new ordinance, Rapid City Municipal Code ("RCMC") Chapter 8.01, which creates a Code Enforcement Board of Appeals (the "CEBA"). At the direction of the Mayor, the Code Enforcement Division has met with the City Attorney's Office over the last several months to draft an ordinance to create a CEBA. If passed, appeals of certain Code Enforcement determinations would be heard by the CEBA, rather than the Developmental Appeals and Review Board (the "DARB"). Certain matters were coming before the DARB that really would have been better suited for a board with the specific purpose of hearing appeals from Code Enforcement action. In addition, creation of the CEBA will provide the citizens of Rapid City with a board specifically tasked with hearing complaints regarding code violations within the territorial jurisdiction of the City of Rapid City, and within the subject matter jurisdiction of the CEBA.

Ordinance revisions of RCMC Sections 8.16.035, 8.16.050, 8.28.030, 10.56.060, and 10.56.065 are also before the Council. It was necessary to make changes to multiple ordinances in order to provide for proper reference to the CEBA, and to bring references to appeal time-frames in line with the appeal time-frame provided for in the CEBA ordinance.

An additional change regarding the definition of junk motor vehicles is also being brought forward at this time. The amendment to RCMC 10.56.010 amends the definition to include broken windows and/or windshields, in certain instances. This will allow the Code Enforcement Division to enforce the junk motor vehicle ordinances in instances where broken glass would pose safety issues to the public.

Staff recommendation is to adopt Chapter 8.01 to create a Code Enforcement Board of Appeals, and to adopt the ordinance revisions necessitated by the adoption of the CEBA.

ORDINANCE NO. 5829

AN ORDINANCE TO PROVIDE FOR APPEAL FROM CERTAIN CODE ENFORCEMENT DETERMINATIONS BY AMENDING SECTION 8.16.050 OF THE RAPID CITY MUNICIPAL CODE.

WHEREAS, the City's Code Enforcement Division, created by Rapid City Municipal Code § 2.24.060, is directly responsible for the enforcement of the Rapid City Municipal Code other than those functions assigned to the Police Department; and

WHEREAS, the Common Council of the City of Rapid City has deemed it is in the best interest of the City to grant citizens the opportunity to appeal certain determinations of the Code Enforcement Division; and

WHEREAS, in order to facilitate this end, the Common Council of the City of Rapid City has approved the creation of a Code Enforcement Board of Appeals (the "CEBA"), by adding Chapter 8.01 to the Rapid City Municipal Code; and

WHEREAS, the creation of the CEBA necessitates certain ordinance amendments in order to reflect the newly codified code enforcement appeal process; and

WHEREAS, the Common Council of the City of Rapid City deems it is in the best interest of the City to amend § 8.16.050 of the Rapid City Municipal Code to reflect the code enforcement appeal process requirements of Chapter 8.01.

NOW, THEREFORE, BE IT ORDAINED, by the City of Rapid City that Section 8.16.050 of the Rapid City Municipal Code is hereby amended to read as follows:

8.16.050 Appeals.

Any order issued by ~~the building inspection department~~ code enforcement pursuant to the terms of §§ 8.16.010 through 8.16.040, may be appealed to the ~~building official~~Code Enforcement Board of Appeals, in writing, and within ~~15~~5 days of the ~~issuance of the order~~ decision or action being appealed, excluding the date of mailing. Such written notice of appeal~~s~~ shall be submitted to the ~~Building Inspection Division~~Manager of the Code Enforcement Division, or his or her designee, 300 6th Street, Rapid City, South Dakota, 57701. Appeals shall be ~~reviewed by the building official and the determination of the building official shall be provided in writing to the person making the appeal~~taken up by the Code Enforcement Board of Appeals in accordance with the provisions of Chapter 8.01 of this Code. ~~Any person aggrieved by the building official's determination may appeal to the International Property Maintenance Board of Appeals or its successor. Any request for appeal to the International Property Maintenance Board of Appeals or its successor must be made in writing within 10 days after notification of the building official's determination. All appeals shall be heard and decided by the International Property Maintenance Board of Appeals or its successor.~~

CITY OF RAPID CITY

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Mayor

ATTEST:

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Finance Officer

(SEAL)

First Reading:
Second Reading:
Published:
Effective: