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. 5832

AN ORDINANCE TO PROVIDE FOR APPEAL FROM CERTAIN CODE ENFORCEMENT DETERMINATIONS BY AMENDING SECTION 10.56.060 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 § 10.56.060 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 10.56.060 of the Rapid City Municipal Code is hereby amended to read as follows:

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 ~~10~~5 days from ~~the date of mailing to file a notice of appeal of the determination contained therein~~ 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 ~~Building Official~~Manager of the Code Enforcement Division, or his or her designee. All appeals shall be heard and decided by the Code Enforcement Board of Appeals, in conformance with Chapter 8.01 of the Rapid City Municipal Code~~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: