ORDINANCE NO. 6377

AN ORDINANCE TO AMEND CHAPTER 15.02-ADMINISTRATION AND ENFORCEMENT OF THE 2015 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA BY REPEALING SECTION 15.02.120, "APPEALS" AS IT IS CURRENTLY WRITTEN AND REPLACING IT WITH A NEW SECTION, 15.02.120, "APPEALS" TO IMPLEMENT A NEW APPEAL PROCEDURE.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

SECTION 1. That Chapter 15.02-Administration and Enforcement of the 2015 Municipal Code of Council Bluffs, Iowa, be and is hereby amended by repealing Section 15.02.120, "Appeals" as it is currently written and replacing it with a new Section 15.02.120 "Appeals" to implement a new appeal procedure and to read as follows:

15.02.120-Appeals.

Any person affected by a decision of the Community Development Director, or his or her designee, in the enforcement of this Ordinance may appeal said decision to the Board of Zoning Adjustment according to the procedures contained herein.

A. Scope of Appeals. An appeal may be taken to the Board of Zoning Adjustment by any person affected by any decision of the Community Development Director, or his or her designee, where it is alleged there is error in any order, requirement, decision, or determination made by any such administrative official in the enforcement of this Ordinance.

B. Filing of Appeals. The appeal shall be initiated by filing with the Community Development Department a written notice of appeal, the grounds for the appeal, and an administrative filing fee as found in the schedule of fees, within thirty (30) days of the decision rendered by the Community Development Director, or his or her designee. The Community Development Director, or his or her designee, shall promptly transmit to the Board of Zoning Adjustment all of the documents related to the decision or action being questioned.

C. Scheduling Appeal Hearing and Notice. A timely filed appeal shall be scheduled for hearing on the next agenda of the monthly meeting of the Board of Zoning Adjustment, unless such hearing would be less than seven (7) days after the timely filing of the appeal, in which case the appeal shall be scheduled for hearing on the agenda of the next Board of Zoning Adjustment meeting. Once scheduled, notice of the time and place of the hearing shall be given to each appellant by mailing a copy of such notice, postage prepaid, addressed to the appellant at his or her address as shown on the appeal.

D. Procedure for Appeal Hearing. Hearings shall be conducted in an informal manner; formal rules of evidence shall not apply. At the hearing, all parties shall have the opportunity to present evidence and cross-examine witnesses. The Board of Zoning Adjustment may establish additional written rules of procedure for the conduct of hearings and their business. The Board of Zoning Adjustment may continue the hearing

to a specified time and date if it determines that additional evidence is necessary to decide the issue.

E. Conclusion of Hearing. At the conclusion of the hearing, or within ten (10) days after the hearing, the Board of Zoning Adjustment shall make written findings and either sustain, modify, or reverse the order of the Community Development Director, or his or her designee. The written findings and decision shall be mailed to the appellant, postage prepaid, at the appellant's address as shown on the appeal. The secretary of the Board of Zoning Adjustment shall maintain the written findings and decision as a public record.

F. Limitation of Authority. The Board of Zoning Adjustment shall have no authority to waive any mandatory requirements of the zoning code, or any other municipal code, as part of this appeal. The Board of Zoning Adjustment shall have the authority to hear and decide appeals of order, decision or determinations made by the Community Development Director, or his or her designee, relative to the application and interpretations of the zoning code only.

G. Review by Court. The City, or any person or persons, who have appealed to the Board of Zoning Adjustment and are aggrieved by its decision may appeal the decision to a court of competent jurisdiction pursuant to the provisions of Iowa law.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND January 28, 2019.
APPROVED

_____
MATTHEW J. WALSH Mayor

Attest: _____
JODI QUAKENBUSH City Clerk

First Consideration: 1-14-19
Second Consideration: 1-28-19
Public Hearing: 1-28-19
Third Consideration: _____