

#### **4.20.132 Administrative Appeal Procedure**

The following process shall apply to the appeal of any actions or declarations of the community development or his/her designee pursuant to this chapter.

Appeal. Any individual or entity desiring to appeal an order issued by the director of community development to the board of review may do so by filing a written notice of appeal with the director of community development within ten (10) days after notification of the director's order. The notice of appeal shall state the grounds for such appeal, shall be delivered personally or by certified mail to the director of community development, and shall include a \$100 non-refundable processing fee.

- A. Within ten (10) days of receiving the written notice of appeal, the administrative authority shall set the date for the hearing of the appeal. Said hearing shall be not less than five days nor more than thirty-six (36) days from the date that the hearing date is set.
- B. Notice of the hearing may be personally served on the owner, a duly designated representative, the owner's attorney, or an adult member of the owner's household. Notice may also be served by first-class U.S. mail to the address listed on the notice of appeal at least five days prior to the hearing date.
- C. The hearing on appeal shall be open to the public and conducted informally. The rules of evidence shall not strictly apply.
- D. The city may be represented before the board by the city attorney's office or the director of community development. The owner may represent him or herself or may be represented by an attorney.
- E. The city shall have the burden to prove by a preponderance of the evidence that the action of the administrative authority or his or her designee should be affirmed.
- F. Each party will be given the opportunity to present their side of the matter, including the presentation of witnesses and exhibits. Any exhibits given to the board members to examine shall become part of the permanent record and will not be returned to the party submitting the same. At the conclusion of the parties' presentations, the board may make a determination or may take the matter under advisement. Ultimately, the board of review, by majority vote of those present and voting, may affirm, modify or reverse the determination of the administrative authority.
- G. The proceedings before the board shall be recorded by one of the following methods: Electronic audio or video recording, certified court reporter, or extensive notes of the testimony kept by a person designated by the board.
- H. The decision of the board shall be deemed final upon the announcement of the vote of the board at an open meeting of the board. The decision does not have to be reduced to writing, but shall be noted in the minutes of the board's meeting. If the order is reduced to writing, it shall still be deemed to have been the final order of the board at the time of announcement.
- I. The final decision of the board may be appealed in the district court of Iowa in accordance with the provisions of the Iowa Administrative Code. If such an appeal is undertaken, and the animal is being held in the custody of the city, then an appeal bond in the amount set forth in the current schedule of fees shall be paid to and held by the Council Bluffs animal control division pending the outcome of the appeal.

- J. Upon finalization of the appeal, the animal control division shall utilize the appeal bond to pay the animal shelter for costs associated with boarding and care of the animal(s) in question. Remaining funds, if any, shall be returned to the owner. The owner shall be responsible for all remaining fees and costs associated with board and keep that is in excess of the amount of the appeal bond.

(Ord. No. 6304, § 1, 9-25-2017; Ord. No. 6357, § 1, 10-22-2018)