

## **CEDAR FALLS BOARD OF RENTAL HOUSING APPEALS RULES OF PROCEDURE**

### **Article I      General Governing Rules**

The Board of Rental Housing Appeals (hereinafter referred to as the Board) shall be governed by the provisions of Chapter 14, Cedar Falls Code, being the Minimum Rental Housing Code of the city, and the rules of procedure set forth herein, as adopted by the Board and approved by the city council. No rule herein shall be changed or waived without the affirmative vote of four members of the seven-member Board and the concurrence of the city council.

### **Article II      Officers, Membership**

1. The Board shall elect a chairperson and vice-chairperson annually in the month of January or at the next regularly scheduled meeting thereafter. The vice-chairperson shall be acting chairperson in the absence of the chairperson. The chairperson may succeed himself or herself only once.
2. The chairperson (or in his or her absence the vice-chairperson) shall preside at all meetings and hearings of the Board and decide all points of order and procedure. In the event that the chair and vice chair are both absent from the meeting, the remaining Board members shall elect an acting chair to preside at the meeting.
3. The city planning and community services manager shall designate a city staff person from the planning and community services division, as secretary to the Board. The secretary shall conduct all correspondence of the Board; keep a minute book recording attendance, the vote of each member upon each question, or if absent or failing to vote, indicating such fact; and records of decisions and other official actions; and shall fulfill such other official duties as may be assigned by the Board.
4. The appointment of each such member shall be made by the mayor with the approval of the city council for a staggered term of four years.

### **Article III      Meetings**

1. REGULAR MEETINGS of the Board shall be scheduled by the secretary of the Board in the event any appeal described in these rules and provided for in either Division 9 or Division 10 of Chapter 14 of the Cedar Falls Code, is filed with the city clerk of the city. In the event that any such appeal has been filed, the city clerk or the secretary shall schedule a meeting within 30 days of the appeal, or within 30 days of filing of all information required by these rules, whichever is later. The meetings shall be held at the Cedar Falls City Hall at 4:00 p.m.

2. SPECIAL MEETINGS may be called by the chairperson for any purpose other than hearing of any appeal described in these rules, provided that at least 24 hours notice of such meeting, and the purpose for such special meeting, is given each member and to the general public.
3. A QUORUM shall consist of four members of the Board for the transaction of all business, including conducting hearings on and making decisions on any appeals.
4. REPRESENTATION, PERSONAL INTEREST. Neither the secretary nor any member of the Board shall appear for or represent any person or entity in any matter pending before the Board. No member of the Board shall hear, discuss, or vote upon an appeal in which he or she is directly interested in a personal or financial way. Board members shall avoid even the appearance of a conflict of interest before entering into any discussion on, or participating in or voting upon, a particular appeal.
5. CONDUCT OF MEETINGS. All meetings shall be open to the public. The chairperson, or in his or her absence, the vice-chairperson, may administer oaths and compel the attendance of witnesses. The order of business at meetings shall be as follows: (a) roll call; (b) review of minutes of previous meetings; (c) unfinished business; (d) hearing of appeals; (e) new business; (f) adjourn.
6. ADJOURNED MEETINGS. The Board may adjourn a regular meeting to a specified date and time, if all business cannot be disposed of on the day of the regular meeting. However, the Board shall give public notice of the date and time of the reconvening of said meeting at least 24 hours before said meeting is reconvened.

#### **Article IV Vacancies**

Failure of any member to attend three consecutive meetings, or five scheduled meetings, within one year (except in case of sickness or temporary absence from the City with due explanation), shall be deemed an automatic resignation from the Board, and upon such resignation, or upon resignation by other means, or other vacancies occurring in the office of any Board member, the chairperson shall inform the mayor and the city council as promptly as possible, so that the mayor and city council may appoint a replacement to fill out the unexpired term of the member whose resignation caused the vacancy.

#### **Article V Appeals and Applications: Notice of Hearings; Amendments of Appeals**

1. Appeals to the Board from the assessment of infraction points to a rental unit, or from the suspension of an occupancy permit for a rental unit, under Division 9 of Chapter 14 of the Cedar Falls Code, may be taken by the person affected, within the time periods specified in either Section 14-210 or Section 14-211 of said Division 9, as applicable, and otherwise in the manner described in Division 9 of the Cedar Falls Code.

2. Appeals to the Board from any city action or decision for which an appeal may be filed under Division 10 of Chapter 14 of the Cedar Falls Code may be taken by the person affected by any such action or decision, by filing such an appeal within 30 days of the action or decision which is being appealed, and otherwise in the manner described in Section 14-225 of the Cedar Falls Code.
3. The appeal shall contain such information as is required in Section 14-212 or in Section 14-225 of the Cedar Falls Code, as applicable. The city clerk of his or her designee may furnish a form approved by the Board and the city council, setting forth all pertinent information as required by Section 14-212 or Section 14-225 of the Cedar Falls Code, or as determined by the Board and the city council. The filing of such information shall be required in order for the appeal to be considered properly filed.
4. The city clerk or the secretary shall schedule a hearing before the Board on any such appeal, within thirty (30) days of the date of filing of the notice of appeal with the city clerk, or within thirty (30) days of the filing with the city clerk of all information required on the form referred to in subsection 3 of this article.
5. The hearing notice shall be posted at City Hall, not less than twenty-four (24) hours before the date of hearing. The city clerk shall send a written notice of the hearing to the person appealing by ordinary mail not less than ten (10) days before the date of hearing, as provided in Section 14-212 or in Section 12-225 of the Cedar Falls Code. The notice shall state the name of the appellant, the street address of the property to which the appeal relates, and the date, time and place of the hearing.

## **Article VI    Hearing**

1. Each appeal may be heard in order of receipt, or in an order as determined by the Board.
2. The hearing on each appeal under Division 9 of the Cedar Falls Code shall be governed by Section 14-214 for appeals. The hearing on each appeal under Division 10 of the Cedar Falls Code shall be governed by Section 14-225 for appeals.
3. The following rules shall govern hearings on any appeal filed with the Board:
  - (a) At the hearing on the appeal, the person who is appealing, or that person's representative if the person appealing is not a natural person, may appear at the hearing. The person appealing may be represented by legal counsel at such person's expense.
  - (b) At the hearing, the city shall be represented by a city officer or employee who is involved in the matter to which the appeal relates, together with a representative of the city attorney's office, if requested by the city.


- (c) The party who is appealing shall have the opportunity to be heard and to present evidence as to why the city notice or other city decision being appealed, should be modified, reversed, or denied. The party who is appealing shall have the burden of proof to show that the city notice or other city decision being appealed should be modified, reversed, or denied by clear, satisfactory and convincing evidence.
- (d) The city shall have the opportunity to be heard and may present evidence as to why the city notice or decision being appealed should be sustained.
- (e) The chairperson of the Board may establish appropriate time limits for presentations by the parties to the appeal, but such time limits shall be equal for both parties to the appeal.
- (f) The board, by a majority vote, may sustain, modify, deny, or reverse the city notice or other city decision being appealed, in any manner deemed appropriate by the Board, consistent with the provisions of the Cedar Falls Code which relate to the matter being appealed. The Board shall issue a written decision in accordance with its findings of fact, based upon the evidence presented at the hearing on the record as a whole and based upon any relevant circumstances, including but not limited to the relevant provisions of section 14-210(b) for appeals involving the assessment of infraction points; the provisions of section 14-211, for the suspension of an occupancy permit; or the applicable provisions of Division 10 of the Cedar Falls Code, for an appeal of any of the matters for which an appeal may be filed under Division 10.
- (g) Hearings conducted under these rules shall be open to the public during the presentation of testimony or other evidence and during any argument or discussion that the Board may permit. Upon completion of the presentation of evidence, argument and discussion, the Board may, by majority vote, retire to a closed session to deliberate on the appeal. The Board shall make findings of fact and a determination based thereon, either at the hearing or within the time specified in these rules. The Board may request assistance from the city attorney's office in formalizing its findings and determinations, which shall be issued in written form. Such findings and determinations shall be made by the vote of at least three (3) members of the Board. The chairperson or vice chairperson or other member of the Board who is acting as chairperson shall vote on each appeal. The Board's decision shall be issued within 30 days after the date of conclusion of the hearing. The city clerk shall mail a copy of the decision to the person appealing, and to the city.
- (h) Either the party who filed the appeal or the city may appeal the decision of the Board to a court of competent jurisdiction within 20 days of the date of the

written decision of the Board in the event of an appeal of a matter arising under Division 9, or within 30 days of the date of the written decision of the Board in the event of an appeal of a matter arising under Division 10 of the Cedar Falls Code. If the decision is not appealed in a timely manner, it shall become final, except as otherwise provided in Article VII of these rules.

**Article VII Application for Rehearing**

Either the person who filed the appeal or the city may file an application for rehearing with the Board within ten (10) days from the date of mailing of the decision of the Board. An application for rehearing must be submitted in the same manner as an appeal to the Board under Section 14-214 or Section 14-225 of the Cedar Falls Code. The Board shall not accept an application for rehearing if the application contains no substantial new information or evidence that was not presented at the original hearing. No more than one application for rehearing may be filed in connection with any appeal. An application for rehearing that contains substantial new information or evidence that was not presented at the original hearing may be reviewed and heard by the Board only upon a motion and a second made from among the members of the Board who were on the prevailing side in the vote on the decision to which the application for rehearing relates. The application for rehearing of the decision shall only be granted on the vote of at least three (3) members of the Board.

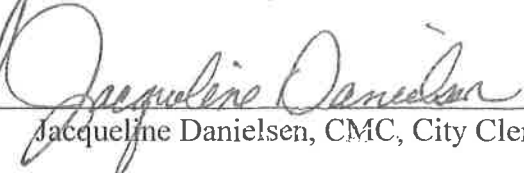
These rules of procedure are adopted by the Board of Rental Housing Appeals on 12<sup>th</sup> day of OCTOBER, 2015

  
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Mark Ripplinger, Chair

ATTEST:   
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David Sturch, Secretary

These rules of procedure are approved by the Cedar Falls City Council on 19<sup>th</sup> day of October, 2015.

  
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Jon T. Crews, Mayor

ATTEST:   
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Jacqueline Danielsen, CMC, City Clerk