



## Legislation Text

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AN ORDINANCE AMENDING SECTION 10-5, OF CHAPTER 10 OF THE DULUTH CITY CODE TO REDUCE THE MEMBERSHIP OF THE BUILDING APPEAL BOARD TO NINE MEMBERS.

### CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Article VI, Sections 10-5, of Chapter 10 of the Duluth City Code is hereby amended as follows:

#### **Sec. 10 5. Building appeal board.**

(a) There is hereby established a building appeal board, which shall hear and determine appeals under the State Fire Code and Duluth Housing Code. Such board shall consist of ~~12~~ nine members who shall be appointed by the mayor, subject to the approval of the city council and who shall serve without compensation. The Duluth fire chief ~~shall be an ex officio member of the board with full voting rights, and The building official shall be appointed as ex officio members of the board. The building official and~~ shall have no vote on any matter before the board and shall act as secretary of the board. One member of the board shall work in the area of finance; one member shall be a registered architect; one member shall be a registered engineer working in the area of building construction design; one member shall be engaged in the business of residential building construction; ~~one member shall be engaged in the business of or commercial building construction; one member shall work in the area of building materials supply; one member shall be a member of a building trade union; one member shall be a realtor or real estate manager;~~ and two members shall be appointed from the general citizenry of the city of Duluth. Of the first persons appointed for membership on the board, four shall be appointed for three years, four shall be appointed for two years, and three shall be appointed for one year. Thereafter, all appointments shall be for a term of three years, except that vacancies caused by death, resignation or otherwise may be filled for the remaining unexpired term;

(b) Within 30 days after the initial appointments, the board shall meet and elect a chairman and vice chairman. Thereafter, the board shall meet at stated intervals fixed by resolution of the board, or at the call of the chairman or of any three members of the board. The board may adopt reasonable rules and regulations for conducting its investigations and hearings;

(c) The board shall have jurisdiction to perform the following functions:

(1) To hear appeals from decisions made by the building official or their designee in enforcing or interpreting the Duluth Housing Code, Chapter 29A, of the Duluth City Code;

(2) To hear appeals from decisions of the fire chief which arise under Chapter 21 of the Duluth City Code;

(3) To hear appeals from an order of the building official which applies Article II or III of Chapter 10 of Duluth City Code, as amended, or its successor, which includes orders for demolition or other decisions under Article II or III of Chapter 10, Duluth City Code;

(d) Any owner or occupant who wishes to appeal a decision of the building official or fire marshal shall serve written notice of appeal upon the building official within 15 days after receiving notice of such decision and pay the appeal fee. The appeal fee shall be set in accordance with Section 31-6(a) of this Code. The notice of appeal shall contain a complete statement of the matter in controversy and relief requested. If the appeal is from a decision of the fire chief or their designee, the building official shall forward a copy of the notice of appeal to the fire chief. The building official shall notify the appellant of the time and place of the hearing. If the appellant withdraws his or her their appeal in writing prior to the date and time set therefore, the building official shall refund the aforesaid fee. At the hearing, the board shall hear all relevant evidence and

arguments. After due deliberation, the board shall render its decision in writing and notify the appellant of its decision by U.S. mail, electronic means or personal service. The building official shall keep an indexed record of decisions of the board. If the board grants an appellant an extension of time to do an act, then, at the next meeting after expiration of that period of time, the matter shall be set on the meeting agenda for the board's review and action;

(e) In making its decisions, the board shall use the following criteria:

(1) Housing code appeals and appeals of demolition or other orders. The board may remedy any error it has found the building official or their designee has made in the interpretation of the housing code or of Article II or III of Chapter 10, Duluth City Code, or their successors. The board may also grant such relief as it deems reasonable from strict compliance with each provision of these parts of Duluth City Code, but no relief shall be granted unless it is found that:

- (A) There is substantial compliance with the provisions of the Code,
- (B) No detriment to public health or safety will result from granting such relief,
- (C) The intent of the Code is not compromised, and;
- (D) The relief granted will not result in increased cost expense to the city;\_

(2) Variances from the minimum requirements of the fire code may be recommended to the state fire marshal only if:

- (A) There is substantial compliance with the provisions of the fire code;
- (B) The safety of the building occupants and general public will not be jeopardized,

and;

- (C) Undue hardship will result to the applicant if relief is not granted;

(f) Any owner or occupant aggrieved by a decision of the board which involves a housing code matter, except a demolition matter under Section 10-3 of this Code, or its successor, may appeal such decision to the city council by filing a notice of appeal with the building official within 15 days after receiving notice of the board's decision. Such notice of appeal shall be addressed to the city council and shall state the grounds upon which the appeal is taken. The filing of a notice of appeal shall stay all proceedings in furtherance of the decision appealed from. The building official shall file all appeal notices with the city council. The city council shall hear the appeal within 30 days after the notice of appeal is filed and shall affirm, modify or reverse the decision of the board. The board's decision on demolition orders or any matter arising under Section 10-3 of this Code, or its successor, shall be appealed to the appellate courts pursuant to Minnesota Statutes Section 606.01.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

STATEMENT OF PURPOSE: This ordinance amends Chapter 10, Article IV, of the City Code, related to the Building Appeal Board. The ordinance changes the size and composition of the building appeal board. These changes would reduce the number of members of the Building Appeal Board from twelve members to nine members (seven citizen members and two ex officio city staff members), eliminating membership positions reserved for a member of the building trade union and a realtor or real estate manager, and combining the positions held by persons engaged in residential and commercial construction. This amending language was shared with the members of the Building Appeal Board at their October 11, 2023, meeting, and they supported the proposed text changes.