

ORDINANCE NO. 14,686

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, and amended by Ordinance No. 14,447 passed May 23, 2005 by amending Sections 26-120, 26-121, 26-122 and 26-123 thereof, relating to licensing and appeals board.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, and amended by Ordinance No. 14,447 passed May 23, 2005 is hereby amended by amending Sections 26-120, 26-121, 26-122 and 26-123 relating to, licensing and appeals board, as follows:

Sec. 26-120. Licensing and appeals board created; authority.

There is created a licensing and appeals board with authority to:

- (1) Review the building, electrical, mechanical, plumbing and fire codes periodically and make recommendations thereto to the city council.
- (2) Prescribe rules and regulations for the conduct of examinations of applicants for licenses and certificates and prepare and conduct written examinations for the licenses and certificates required by this chapter. For written examinations, the board may utilize the services of a professional testing agency in lieu of creating its own tests. The cost of professional testing agency fees shall not exceed the amount collected from the applicants taking the examination.
- (3) Rule upon the qualifications of all applicants, including whether education and training requirements have been met. The board shall certify qualified

applicants, together with their respective examination ratings, to the building official within 30 days after the date upon which the examination is held. The building official shall then cause the certificate to be issued. No certificate shall be issued without written certification from the board.

- (4) Suspend or revoke any of the licenses or certificates required by articles II, III, IV and V, for due cause and subject to the limitations in this article, but only after the person charged therewith has been given notice and an opportunity to be heard in their own defense.
- (5) Act as a board of appeals to hear grievances arising from a decision of the building official or fire chief, and to provide for reasonable interpretations consistent with the provisions of the building, electrical, mechanical, plumbing and fire codes. Any person may upon written request appeal a previous decision of the building official or fire chief to the board for consideration.
- (6) Determine the suitability of alternate materials and types of construction to those otherwise allowed by the building codes and to provide reasonable interpretations of the provisions of such article.
- (7) Waive building code requirements that, in the opinion of the Board, do not render the building or structure more hazardous, based on life safety, fire safety and sanitation, than the code requires.
- (8) Adopt a responsible method whereby the building official is authorized to conduct qualifying examinations for homeowner's permits.
- (9) The board shall not have authority over administrative matters or matters covered by the board of power engineer examiners.

Sec. 26-121. Terms; composition.

- (a) The licensing and appeals board shall consist of 17 members. Fifteen of the members shall be appointed for terms of three years, provided however that the terms of five of the initial appointed members shall be for one year, and the terms of five of the initial appointed members shall be for two years. All appointed terms shall expire on the April 1st.
- (b) The appointed members of the licensing and appeals board shall consist of the following persons having a minimum of five years of experience in the required field:

- (1) One Iowa registered architect.
 - (2) One Iowa registered professional engineer (structural or construction).
 - (3) One Iowa registered professional engineer (mechanical).
 - (4) One Iowa registered professional engineer (electrical).
 - (5) One general contractor experienced in residential construction.
 - (6) One general contractor experienced in commercial construction.
 - (7) Two electricians who hold an active master electrician certificate of competency issued by the city and are in responsible charge of the electrical installation operation of a licensed electrical contracting firm.
 - (8) One plumber who holds an active master plumber certificate of competency issued by the city and is in responsible charge of the plumbing installation operation of a licensed plumbing contracting firm.
 - (9) One plumber who holds an active journeyman plumber certificate of competency issued by the city.
 - (10) Two mechanical contractors who hold an active class A, B, C or D mechanical contractor license issued by the city.
 - (11) One licensed attorney.
 - (12) One person shall be a qualified engineer, architect, technologist, technician or safety professional trained in fire protection engineering, fire science or fire technology, including but not limited to fire protection contractors and certified technicians engaged in fire protection system design.
 - (13) One person with experience in historic preservation.
- (c) The building official and fire marshal shall serve as ex officio members of the board.
- (d) Any member of the board may be removed by the city council for malfeasance in office, incapacity, or neglect of duty.

Sec. 26-122. Hearings.

- (a) Any person affected by a decision of the building official or fire chief may request and shall be granted a hearing on the decision, provided that the person shall file in the permit and development center a written petition requesting a hearing and setting forth a brief statement of the grounds within 15 days after receiving notice of the decision. Upon receipt of the petition, the permit and development center shall set a time and place for the hearing and shall give the petitioner written notice

thereof at least three days before the date set for it, unless such notice requirement is waived, in writing, by the petitioner. The hearing shall be commenced not later than thirty days after the day on which the petition was filed, unless, for good cause shown, the building official grants a postponement, in writing.

- (b) At the hearing the petitioner shall be given an opportunity to be heard to show why the decision of the building official or fire chief should be modified or withdrawn. The building official or fire chief shall have the opportunity to be heard to show why their decision should be affirmed.
- (c) Any hearing concerning the suspension or revocation any license or certificate shall be held at the earliest convenience of all parties concerned, but in any case shall be within five days, excluding Saturdays, Sundays, and holidays, after written notice has been served on the person charged with the violation. The board shall hear all interested parties who have pertinent written or oral evidence or information to present for consideration.

Sec. 26-123. Decisions.

- (a) After the hearing as provided in section 26-122, the licensing and appeals board shall affirm, modify or withdraw the decision of the building official or fire chief. In proceedings relative to the suspension or revocation of licenses or certificates, at least two-thirds of all appointed members serving on the board must concur in any suspension or revocation.
- (b) Suspensions shall be for any period, up to six months. During the period of suspension, the license or certificate of the offender shall be void, and the offender shall not perform any work for which a license or certificate is required. After the termination of the period of suspension, the license or certificate shall be reactivated by the building official, provided that renewal fees which have become due thereon have been paid.
- (c) The proceedings at any hearing before the board, including the findings and decision of the building official or fire chief, if applicable, shall be summarized, reduced to writing, and entered as a matter of public record in the permit and development center. This record shall include a copy of every notice or order issued in connection with the matter.

Sec. 2. This ordinance shall be in full force and effect

from and after its passage and publication as provided by law.

FORM APPROVED:

Roger K. Brown, Assistant City Attorney

T.M. Franklin Cownie, Mayor

Attest:

I, Diane Rauh, City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance (Roll Call No. 07-1630), passed by the City Council of said City at a meeting held August 20, 2007 signed by the Mayor on August 20, 2007 and published as provided by law in the Business Record on September 3, 2007, Authorized by Publication Order No.5745.

Diane Rauh, City Clerk