

★ Roll Call Number

Agenda Item Number

50B

Date August 20, 2007

An Ordinance entitled, "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",

which was considered and voted upon for the first time under Roll Call No. 07- 1539 of July 23, 2007, and considered and voted upon for the second time under Roll Call No. 07- 1434 of August 6, 2007, again presented.

Moved by _____ that this ordinance do now pass.

ORDINANCE NO. _____

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.


City Clerk

MOTION CARRIED

APPROVED

.....
Mayor

SOB

 Council Communication Office of the City Manager	Date	July 23, 2007
	Agenda Item No. 40A-85 Roll Call No. 07-1433 Communication No. 07-461 Submitted by: Larry Hulse, Community Development Director	77B M-1539

AGENDA HEADING:

Amending chapter 26 of the municipal code to update the Building Code, Existing Buildings Code, Mechanical Code, Fuel Gas Code and the Plumbing Code.

SYNOPSIS:

Recommend approval of an ordinance change to amend Chapter 26 of the municipal code and update the Building Code, Existing Buildings Code, Mechanical Code, Fuel Gas Code and the Plumbing Code to the most recent published editions of nationally developed model codes.

FISCAL IMPACT: NONE

ADDITIONAL INFORMATION:

This action will update and amend Chapter 26 of the Municipal Code and the referenced model codes contained therein to the most recent editions of these model codes. This action includes the 2006 International Building Code; the 2006 International Residential Code; the 2006 International Existing Buildings Code; the 2006 International Mechanical Code; the 2006 International Fuel Gas Code; and the 2006 Uniform Plumbing Code. These changes are aligned with the codes adopted by the metropolitan area communities wherever possible.

The Board of Licenses and Appeals have reviewed these changes with staff, conducted a public hearing, and have made and received suggestions concerning these revisions. Staff has attempted to incorporate these suggestions where possible.

A summary and outline of the changes to the ordinance follows:

Article I incorporates the general provisions common to each of the codes. The provisions establish and provide rules of conduct for the Permit and Development Center, the Board of Appeals, and the authority of the Building Official. These provisions remain substantially the same although organizational and editorial changes have been incorporated. With the advent of the trades licensing authority eventually transferring to the State, the name of the License and Appeals Board is being changed to the Building and Fire Code Board of Appeals. The Fire Department does not currently have a mechanism in place to hear appeals. By establishing a seat for a fire engineer in lieu of the real estate seat will address the issue. The License and Appeals board has unanimously approved this new structure and its future role in the City of Des Moines. Language relating to licensure of plumbers and electricians has been modified to include a sunset clause as the shift from municipal licensing to the State will occur during this code cycle.

Article II adopts by reference the 2006 International Building Code, the 2006 International Residential Code, and the International Existing Buildings Code. These documents are successor documents to those currently adopted. Amendments made unnecessary by changes to the new codes have been eliminated. Amendments that have been developed in coordination with our surrounding communities have been retained or added, such as those for standardized residential foundations, structural wind bracing, residential stair provisions accommodating floor finishes, handrail continuity, location on property, and residential ice protection at roofs. Applicability of the Existing Buildings Code includes expansion to encompass buildings 50 years or older. Demolition of buildings, obstruction permits, and administrative permitting provision remain unchanged.

Article III references the 2005 National Electric Code. This document remains in effect without modification. The 2008 National Electric Code had not yet been released in time for this update.

Article IV adopts by reference the 2006 International Mechanical Code and the 2006 International Fuel Gas Code. This amendment updates the mechanical and fuel gas codes to the most recent editions.

Article V adopts by reference the 2006 Uniform Plumbing Code as published by the International Association of Plumbing and Mechanical Officials (IAPMO). This is a successor document to the code currently adopted. Provisions regarding unsafe installations, cross connections, copper systems, backwater valves and vents, storm drains, supply and water systems remain unchanged. Provisions regarding grease interceptors currently in the 2003 Uniform Plumbing Code remain in effect, and provisions of the 2006 Uniform Plumbing Code regarding grease interceptors and FOG have been omitted.

PREVIOUS COUNCIL ACTION(S):

Date: April 25, 2005

Roll Call Number: 05-1011

Action: Amending Chapter 26 of the Municipal Code to adopt 2003 International Building Code, 2003 International Existing Building Code, portions of the 2003 International Residential Code, 2003 International Mechanical Code, 2003 International Fuel Gas Code, 2005 National Electric Code, 2003 Uniform Plumbing Code, and miscellaneous amendments and reorganization. (Council Communication No. 05-219) Moved by Hensley that this ordinance be considered and given first vote for passage as amended; Article V – Plumbing Code, shall be removed and forwarded to City staff and the Licensing and Appeals Board for review and recommendation. Motion Carried 7-0.

Date: November 8, 2004

Roll Call Number: 04-2399

Action: Beginning the process to adopt the 2003 edition of the International Council Family of Construction Codes in conjunction and coordination with participating surrounding communities. Moved by Hensley to adopt. Motion Carried 7-0.

Date: November 22, 2004

Roll Call Number: 04-2536

Action: Receive and file communication from the Licensing and Appeals Board regarding a proposed change to the Plumbing Code. Moved by Vlassis to receive and file. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S):

Date: July 12, 2007

Roll Call Number: License and Appeals

Action: Recommend approval of the proposed ordinance, motion carried 7-12. 5 absent.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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ORDINANCE NO. _____

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, ~~and 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, and 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

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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 with ~~experience in real estate or real estate financings~~ 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 the ~~building official's~~ 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

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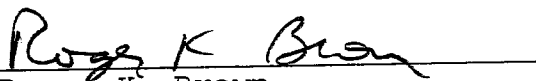
information to present for consideration.

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