

CHAPTER 10.

BUILDINGS.

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Article I. Building Code.

Sec. 10-1. State building code adopted.

The city of Duluth hereby adopts the current Minnesota State Building Code, including all of the amendments and rules and regulations, as adopted by State of Minnesota commissioner of labor and industry, with the exception of the optional chapters unless specifically adopted below pursuant to Minnesota Statutes Sec. 326B.101 to 326B.16, and as the same is from time to time amended, and such code is incorporated by reference into this ordinance as if fully set out herein.

(a) The following optional provisions and optional chapters of Minnesota Rules are hereby adopted by reference and incorporated as part of the building code:

(1) Grading, International Building Code Appendix Chapter J;

(b) The application, administration and enforcement of this code shall be in accordance with Minnesota Laws, Chapter 326, and Minnesota Rules, Chapter 1300. The code enforcement agency shall be called the city of Duluth, which acts through its construction services division or its successor office within the city as designated from time to time by the city's mayor. The code shall be enforced by a Minnesota certified building official designated by the city to administer the code (Minnesota Statutes, Sec. 326B.133, subdivision 1). (Ord. No. 8436, 1-8-1979, ' 1; Ord. No. 9244, 3-27-1995, ' 1; Ord. No. 9651, 3-8-2004, ' 1. Ord. No. 1057, §1, 6-25-2018 Ord. No. 10892, 7-15-24, Sec. 1)

Sec. 10-1.1. Definition--building official.

Whenever the words Building official@ are used in this Chapter, they shall mean a person certified by the state to perform the duties of a building official as provided in Minnesota Statutes Sec.326B. 133 or its successor, as it may be amended from time to time, and authorized to perform such duties on behalf of the city. (Ord. No. 9941, 10-27-2008, ' 2. Ord. No. 1057, §2, 6-25-2018)

Sec. 10-2. Building permit fee schedule.

(a) Building permit fees. Collection of fees for building permits and building inspections, as authorized in Minnesota Statutes, Sec. 326B.121 subdivision 2, shall be assess for work in accordance with eh current fee schedule adopted pursuant to Sections 2-5, 31-6 and 31-8 or this code.

(b) Special permits and fees. Special permits shall be obtained and special fees paid in all cases for items included in the following schedule whether said items are installed in new buildings or in existing buildings, unless otherwise herein provided, but the value of such items need not be included in the valuation upon which the main building permit is estimated as before provided in Subdivision (a) herein.

All of the provisions of the State Building Code pertaining to permits shall apply to such special permits as well as to the main building permit, excepting only the schedule for original fees.

Fees for the following shall be set in accordance with Section 31-6(a) of this Code:

(1) Moving over public property any building which has an area of 1,000 square feet or less on the first floor;

(2) Moving over public property any building which has an area of over 1,000 square feet on the first floor;

(3) Moving any building or structure not on public property;

(4) Razing or demolishing any building or structure;

(5) The installation of a mobile home;

(c) Special permits shall also be taken out and fees paid for the installation or alteration of electrical wiring, plumbing, heating plants, fireplaces or any other construction or accessory to a building or structure, the use of which is regulated by the provisions of the State Building Code and which for any reason is not included in the permit for general construction; and the fees for same shall be ascertained in the same

manner as for the construction of new buildings;

(d) The payment of a fee as provided herein shall not relieve the applicant or holder of the permit from the necessity of obtaining additional permits and the payment of other fees that may be prescribed by law or ordinance, for the temporary occupation of public property, for inspections, certificates, sewer connections, water connections, gas connections or other privileges or requirements;

(e) When work for which a permit is required by this Code is started or proceeded with before said permit is obtained, the fee specified shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of the State Building Code in the execution of the work, nor from any other standards or penalties prescribed by law;

(f) No permit to erect, repair or alter any building or structure shall authorize the use of any part of any public thoroughfare, or other public ground or easement. (Ord. No. 8436, 1-8-1979, ' 1; Ord. No. 8551, 11-24-1980, ' 11; Ord. No. 8668, 9-12-1983, ' 1; Ord. No. 8890, 5-9-1988, ' 1; Ord. No. 8953, 8-21-1989, ' 1; Ord. No. 9118, 1-11-1993, ' 15; Ord. No. 9244, 3-27-1995, ' 2; Ord. No. 9611, 7-28-2003, ' 17; Ord. No. 9620, 9-22-2003, ' 1; Ord. 9651, 3-8-2004, ' 2. Ord. No. 10892, 7-15-24, Sec. 1))

Article II. Demolition of Damaged or Unsafe Buildings.

Sec. 10-3. Demolition procedure.

(a) General. Whenever it comes to the notice of the building official that any building or structure is in a damaged, dilapidated or dangerous condition, it shall be their duty to inspect of such building or structure. It shall be unlawful to repair or alter any building or structure located in the city if, in the opinion of the building official based upon information documented in the official file and records, such building or structure has been damaged or deteriorated from any cause to the extent that the building official's good faith, reasonable estimate of the cost of repairing and restoring the building is more than 60 percent of the current fair market value of the building, as shown in the records of the county assessor or as adjusted by the assessor for accuracy, and all such buildings or structures so damaged or deteriorated shall be torn down and removed when so ordered by the building official; provided, however, that the building official, or the building appeal board in cases appealed to it, may allow such a damaged or deteriorated building to be repaired, for good cause shown related to the use, location or unique characteristics of the building, when the owner shows that they have dedicated sufficient funds to pay for the repair, have entered into a valid contract to have the repair completed, and will complete all the repair and restoration work within a reasonable time, not to exceed 18 months;

(b) Orders for demolition and assessment of costs. All orders for the demolition of a dangerous, defective or deteriorated building, or for repairs to the same, shall be in writing, signed by the building official, and shall allow not less than 30 days in which to comply with said order. Each order shall identify the structure, state the legal basis of the order, the date of the order, the fair market value of the building, the building official's good faith, reasonable estimate of the cost of repairs, the calculation that forms the basis for the opinion that the damage requires that the building be demolished, the time and procedure for appeal, and other information deemed relevant by the building official. Should any such order not be complied with within the time allowed therefor or, should the structure constitute an immediate threat of bodily harm to the public, or the appeal provided for in Section 10-5 of this Chapter not be taken, the building official shall, in writing, communicate such information to the city council. The city council may direct the building official to proceed with the work ordered, or to contract to have the work done. In case of the demolition of a building, should the sale of the salvage from such building exceed the cost of the demolition, the balance in excess of the cost shall be paid to the owner of said building or to such other persons as may by law be entitled thereto. A statement of the cost of such work shall be transmitted to the city council which may cause the same to be charged against the land on which the building existed as a municipal lien, which lien shall be recorded with the register of deeds or registrar of titles as a lien against such land, or to be recovered in a suit at law against the owner, or to cause any or all of such costs to be assessed against the property from which such removal takes place. If the city council decides to assess the cost of demolition against the affected property, such assessment shall be made by resolution of the council, and such resolution shall state a time by which such assessment shall be payable, which time shall be not less than 30 days after publication of such resolution and service of notice of the assessment upon the property owner. Notice of such assessment and the time within which it shall be paid, shall be served on the owner of such property in the manner provided in Subsection (c) of this Section below, except that it shall not be necessary to post such notice on the affected

property or to publish such notice other than to publish in the regular manner the resolution by which such assessment is made. Delinquent assessments shall be certified to the county auditor of St. Louis County for collection in the same manner as other assessments, pursuant to Article IX of the Duluth City Charter;

(c) Service of Notice. Except as otherwise provided for in Subsection (b) above, service of all orders provided for in this Section shall be made as follows:

- (1) Posting the order in a conspicuous place on or about the building or premises;
- (2) Delivering a copy of the order by any reasonable means including, without limitation, personal delivery, electronic mail or United States mail to (a) the owner of record (or the owner's agent if the agent is in charge of the building or property), and (b) any other known lienholder of record; and
- (3) Publication once a week for two weeks in any legal newspaper located within St. Louis County.

For purposes of this section, "owner of record" and "lienholder of record" means an individual or entity holding a right or interest in the building or property, the evidence of which is recorded in the offices of the St. Louis County Recorder or Registrar of Titles.

(d) In addition to other provisions of the Code, this Section 10-3(d) is enacted;

(1) Policy. Pursuant to authority provided in Minnesota Statutes, Section 463.26, permitting cities to enact and enforce ordinances on hazardous buildings, and in order to enhance the livability and preserve the tax base and property values of buildings within the city, and based upon the findings contained in Section (2); and because of the need to assure that buildings which are capable of rehabilitation are promptly rehabilitated and buildings which are not capable of rehabilitation be promptly demolished, the city hereby declared that it is the policy of the city to promote rehabilitation of vacant and unoccupied buildings, and to assure a prompt process for demolition of hazardous buildings through a procedure fixing appropriate responsibility in accordance with due process requirements;

(2) Findings. The city council finds, determines and declares that buildings which remain vacant and unoccupied for any appreciable period of time become an attractive nuisance to children, a harborage for rodents, and invitation to derelicts, vagrants and criminals as a temporary abode, and an increased fire hazard, and that the unkempt grounds surrounding such property invite the dumping of garbage and rubbish thereon; that such buildings are permitted to become dilapidated since such buildings are often economically obsolete and the owners of such buildings are unwilling to expend the necessary funds to repair or raze the buildings; that such buildings contribute to the growth of blight within the city, depress market values of surrounding properties to the detriment of the various taxing districts and require additional governmental services; that the use and maintenance of property in such condition and manner endangers the public safety and health, constitutes an unreasonable use and condition to the annoyance, discomfort and repose of a considerable number of the public, is detrimental to the public good and to the common welfare; and renders a considerable number of the public insecure in the use and enjoyment of their property, and thus may constitute a nuisance condition. Adequate protection of public health, safety and welfare, therefore, requires the establishment and enforcement of the means by which such nuisance conditions may be abated;

(3) Securing vacant buildings;

(A) In general, if any building becomes vacant or unoccupied and is deemed hazardous due to the fact that the building is open to trespass and has not been secured and the building could be made safe by securing the building, the building official or their designee may order the building secured and shall cause notice of the order to be served upon the owner of the premises. Such notice may be served personally or by mail. Service by mail is complete upon mailing a copy of the order to the owner at the last known address. If the owner fails to comply with the order within six days after the order is served, the building official shall cause the building to be boarded up or otherwise properly secured;

(B) Emergency. When it is determined by the building official or the chief of police, or the fire chief that an emergency exists with respect to the health or safety of persons in the community, and immediate boarding and securing of a building is required, and where danger will exist to children, transients or others in the absence of an immediate boarding or securing of the building, the building official or the chief of police, or the fire chief may waive all requirements herein and immediately board or otherwise secure the building, provided that:

1. The conditions showing the existence of an exigency are documented in writing by the building official or the chief of police or the fire chief or their designees;

2. Notice be mailed immediately by the department invoking this Section to the address of the owner and taxpayer, and, if recorded on the assessor's rolls, the address of the mortgage holder, of the date of boarding or otherwise securing and the reasons therefore;

(C) After a vacant or unoccupied building has been boarded or otherwise secured under this section, should the owner fail to maintain the building in a secured condition until such time as it has been repaired and reoccupied, the building official shall re-secure any openings into the building whenever it again becomes open to trespass, without further notice to the owner. An administrative fee shall be set in accordance with Section 31-6(a) of this Code and all other costs incurred by the city for boarding or otherwise securing a building under this Chapter, including, but not limited to the actual costs for boarding, posting and monitoring the building, building and housing code compliance inspections, police or fire department inspection, response, or protection; public health and safety investigation; control of people or property wrongfully on the premises shall be assessed as provided in Duluth City Code Section 10-3. The above fees, when collected, shall be dedicated to the use of the department(s) that administer(s) the enforcement actions. Owner, for the purposes of this Section, shall mean the person who is listed as the contact person on the current rental licensing application on file with the city, if any; or, if none, the person listed as owner by the city assessor on the homestead record; or, if none, the taxpayer as shown by the records of the city assessor;

(4) Vacant building registration;

(A) The owner of a residential building or building located in a residentially zoned area shall register the building with the building official within 30 days after it becomes a vacant building. The owner of any commercial building or building located outside a residentially zoned area shall register the building with the building official or their designee within 30 days after it becomes a vacant building.

1. In this Section, a residential building is deemed vacant under one or more of the following circumstances:

- i. Condemned;
- ii. Unoccupied and unsecured for 30 days or more;
- iii. Unoccupied and secured by means other than those normally used in the design of the building for 30 days or more;
- iv. Unoccupied and has multiple housing maintenance, fire or building code violations existing for 30 days or more;
- v. Unoccupied and an existing owner or lienholder requests registration in accordance with the provisions of this Section;

2. In this Section, a commercial building is deemed a vacant building under one or more of the circumstances:

- i. Condemned
- ii. Unoccupied and/or unsecured for 120 days or more;
- iii. Unoccupied and/or secured by means other than those normally used in the design of the building for 120 days or more;
- iv. Unoccupied and/or has multiple housing maintenance, fire or building code violations existing for 120 days or more;
- v. Unoccupied and/or an existing owner or lienholder requests registration in accordance with the provisions of this Section; or
- vi. Unoccupied and/or secured for over 365 days.

(B) The registration shall be submitted on forms provided by the building official or their designee and shall include the following information supplied by the owner:

1. A description of the premises;
2. The names and addresses of the owner or owners;
3. The names and addresses of all known lien holders and all other parties with an ownership interest in the building;
4. The period of time the building is expected to remain vacant; and a plan and timetable for returning the building to appropriate occupancy or for demolition of the building;

(C) The owner shall submit a plan and timetable that must comply with the guidelines adopted by the building official. The guidelines are adopted for purposes of preventing nuisance conditions and maintaining compliance with this Code. These guidelines shall be made available to building owners. The plan shall be submitted at the time of registration, or within a reasonable period of time thereafter to be determined by the building official or their designee;

(D) The owner shall acquire or otherwise maintain fire, property, and liability insurance in an amount not less than \$300,000. Evidence of this insurance shall be submitted to and approved by the city attorney.

(E) The owner shall comply with all applicable laws and codes. The owner shall

notify the building official of any changes in information supplied as part of the vacant building registration within 30 days of the change. If the plan or timetable for the vacant building is revised in any way, the revisions must meet the approval of the building official or their designee;

(F) The owner and the subsequent owners shall keep the building secured and safe and the building and grounds properly maintained until the rehabilitation or demolition has been completed;

(G) Failure of the owner or any subsequent owner to maintain the building and premises that result in abatement completed by the city shall be grounds for revocation of the approved plan and shall be subject to any applicable penalties provided by law;

(H) The new owner(s) shall register or re-register the vacant building with the building official within 30 days of any transfer of an ownership interest in a vacant building. The new owner(s) shall comply with the approved plan and timetable submitted by the previous owner until any proposed changes are submitted and meet the approval of the building official;

(I) The building official shall include in the file any property-specific written statements from community organizations, other interested parties or citizens regarding the history, problems, status or blighting influence of a vacant building;

(J) Vacant building fees:

1. The owner of a vacant building shall pay an annual fee, which shall be set in accordance with Section 31-6(a) of this Code. The fee is imposed to defray the administrative costs for registering and processing the vacant building registration form and for the costs of the city in monitoring the vacant building site;

2. The first annual fee shall be paid no later than 30 days after the building becomes vacant. Subsequent annual fees shall be due on the anniversary date of initial vacancy. The fees shall be paid in full prior to the issuance of any building permits, with the exception of a demolition permit;

3. Unpaid fees shall be levied and collected as a special assessment against the property as provided for under Section 10-3, with interest at the rate set in accordance with Section 31-8 of this Code per annum on the unpaid balance thereof. Upon transfer of ownership, the new owner(s) shall be responsible for all unpaid and subsequent annual fees;

4. The fire chief, or their designee, in their sole discretion, may waive the first or subsequent annual fees if all past due property taxes are paid and the owner demonstrates compliance with all city-approved building restoration agreements.

(K) A building owner shall provide access to all interior portions of an unoccupied building in order to permit a complete inspection for the purpose of enforcing and assuring compliance with the provisions of this Chapter.

(L) The following are exempt from all provisions of this section 10-3:

1. Buildings owned by the U.S Government or State of Minnesota, and their political subdivisions; and

2. Buildings owned by housing and/or redevelopment authorities of the U.S Government or State of Minnesota, and their political subdivisions.

(Ord. No. 8436, 1-8-1979, § 2; Ord. No. 9481, 2-26-2001, § 1; Ord. No. 9680, 7-12-2004, § 1; Ord. No. 9784, 7-24-2006, § 1; Ord. No. 10155, 5-29-2012, § 4; Ord. No. 10249, 9-9-2012, § 1; Ord. No. 10406, 9-14-2015, § 1; Ord. No. 10475, 9-26-2016, §1. Ord. No. 10519, 8-28-2017, §1 Ord No. 10892. 7-15-24, Sec. 1)

Article III. Moving or Wrecking Buildings.

Sec. 10-4. Permit requirements and regulations.

Before any permit is issued for the moving, wrecking, razing or demolishing of a building or structure, the applicant shall file with the building official of the city of Duluth a performance bond and a certificate of insurance, as hereinafter required.

(a) Wrecker's and mover's performance bond. The wrecker's and mover's performance bond shall be executed by the applicant and a corporate surety licensed to do business in this state and shall provide in substance that the applicant and surety are firmly bound unto the city of Duluth in the penal sum of \$10,000, and that such bond shall be void if the applicant shall perform and sufficiently complete all work for which the permit is issued in accordance with all ordinances of the city of Duluth within a reasonable period of

time, and shall restore any street or sidewalk damaged or excavated by applicant to its prior condition, and shall reimburse the city of Duluth for all damages to any city property, and shall save the city harmless from any and all claims, resulting from the work operations, regardless of whether the damage is done by the applicant, its agents, employees or subcontractors. For the purpose of interpreting and applying the phrase, "within a reasonable period of time," the building official shall, without excluding other relevant factors, take into account:

- (1) Whether the building or structure is to be wrecked, razed or demolished;
- (2) Whether the building or structure is to be moved from one premises to another premises;
- (3) Whether the building or structure is to be moved upon, along, over and across any one or more of the public highways or grounds of the city of Duluth; and
- (4) As to whether delay by the permittee or their subcontractor in prosecuting the work will endanger or tend to endanger the public health or safety of the city of Duluth and its inhabitants.

Any person wishing to apply for more than one permit to wreck, raze, demolish or move structures or buildings in the city of Duluth in any calendar year, in lieu of filing a separate bond for each permit, may file a bond under the same terms and conditions as set forth above, binding the surety to the sum of \$10,000 for each permit issued, but with an annual calendar year aggregate limit of \$20,000;

(b) Insurance. The applicant shall also file with the building official a certificate of an insurance company authorized by the laws of the state to transact such business duly certifying to the fact that the applicant has in force with such company a comprehensive general liability policy, including completed operations, products liability, explosion, collapse, and underground property liability coverage to cover their operations under such permit. Such policy shall be in the amount of \$500,000 for bodily injuries occurring in any year and \$100,000 for property damage occurring in any year and shall name the city as an additional insured. Such policy shall contain a provision that no cancellation of such insurance shall become effective without ten days written notice to the building official;

(c) Approval of bonds and insurance. All bonds, policies of insurance, or certificates of insurance shall be approved as to form by the city attorney before any applicant shall commence the doing of any work under any permit authorized herein;

(d) Exception to bond and insurance provisions. The owner of any one or two family dwelling or building accessory to such dwelling who wishes to wreck, raze or demolish such building may be granted a permit without providing the aforesaid insurance certificate and performance bond;

(e) Street obstruction permit required. When any building or structure is to be moved over any public thoroughfare, or when any service disconnection requires excavation in a street or sidewalk, a separate permit shall also be obtained from the division of engineering of the city of Duluth, in accordance with and subject to the terms of Chapter 45, Article II, of the Duluth City Code, 1959; and the time and proposed route for moving shall be approved by the traffic department of the city of Duluth police department. If the bond and insurance required by this Section shall be filed with the building official for a wrecking or moving permit, no additional bond or insurance need be filed with the engineering division to obtain a street obstruction permit for such wrecking or moving;

(f) Buildings or structures which can be moved. A permit may be granted for the moving of any building or structure which is structurally sound and safe, from one location on the same premises, or from one premises to other premises, provided such building or structure conforms to the applicable regulations of the State Building Code and the zoning ordinance of the city of Duluth;

(g) Buildings and structures which cannot be moved. No permit shall be granted for the moving of any building or structure, or portion thereof, which has deteriorated or been damaged to an extent greater than 50 percent of the value of a similar new building or structure;

(h) Certain dilapidated buildings or structures not to be moved--exceptions. No permit shall be granted for the moving of any building or structure or portion thereof, from one location to another location on the same premises, or from one premises to other premises if in the judgment of the building official, the building or structure:

- (1) Is so old, dilapidated and so out of repair as to be unsanitary, unfit for human habitation, occupancy or use; or
- (2) By reason of its external appearance would be detrimental to the general character of the neighborhood in its new location, unless plans and specifications are submitted at the same time and a permit is also procured to alter such building or structure in a manner as approved by the building official and in compliance with the regulations of the State Building Code.

If after moving such building or structure, the owner or permit holder fails to alter the building or structure within a period of 60 days in accordance with approved plans and the terms of the permit issued, the building official may deny the use and occupancy of the building;

(i) Sewer line and utilities. Before moving, wrecking, razing or demolishing any building or structure, it shall be the duty of the permittee to give the sewer division, department of public service, of the city of Duluth a notice thereof in writing at least three days, exclusive of Saturdays, Sundays and holidays, in advance, of their intention to do so, and such permittee shall not commence the moving, wrecking, razing or demolishing of any building or structure until the sewer line has been plugged with concrete or other suitable stopper.

Except as provided herein, prior to the moving, wrecking, razing or demolishing of any building or structure, the permittee shall excavate a 2-1/2 foot x 5 foot hole over the water and gas mains, and shall immediately thereafter notify the water and gas department so that the department can accomplish the physical disconnection of the water and gas service lines from the mains by cutting the service lines from the mains. No moving, wrecking, razing or demolishing shall be commenced until after disconnections are made.

After the water and gas department has accomplished the physical disconnection of the service lines from the mains, the permittee shall promptly backfill the excavation and complete the permanent street surface in equal quality to the existing street surface. In cases where the director of water and gas deems appropriate, after taking into consideration the age and condition of the service and the future use of the realty, the director of water and gas may authorize the permittee to post a performance bond in lieu of making the excavations required herein. The bond shall be in an amount sufficient to cover the cost of making such service disconnects and in no event shall be less than \$1,000. The bond shall be written by a corporate surety licensed to do business in the state of Minnesota and shall be conditioned that such bond shall be void if, within one year after the issuance of the permit, either the construction of a new structure on the site be commenced or the excavation required herein shall be made by the permittee. In all cases where a bond is filed in lieu of making the excavations, the water and gas services shall be cut off outside of the building to be moved or demolished and shall be securely capped in a manner approved by the director of water and gas. No moving, wrecking, razing or demolishing shall take place until the services are so capped;

(j) Electrical and telephone wires. In every case in which a permit shall be issued, when such building or structure moving operation requires the displacement of any overhead electrical or telephone wires, it shall be the duty of the person owning, operating and controlling such wires to remove or displace the same so far as it may be necessary to effect the moving operation;

(k) Notice. It shall be the responsibility of any permittee who has made application for any moving operation to notify the person owning, operating, or controlling any overhead wires of the proposed moving operation, and no permit shall be issued hereunder until satisfactory proof is offered to the office of the building official that such person shall remove or displace such wires sufficiently to allow the passage of the building or structure along the highways over which such wires are suspended on the dates and at the times designated for the passage of such building or structure;

(l) Removal of material and grading incidental to demolition of buildings and structures. Following demolition of a building or structure, all building materials of any kind or nature which were part of the demolished building or structure including those located below grade shall be removed from the property upon which the demolished building or structure was located as soon as it is reasonably possible to do so. On completion of demolition and removal of such materials, any excavation resulting from such demolition shall be filled to an elevation level with that of the surrounding property with material accepted in the construction industry as "clean fill material", with allowance made for settlement. Following such filling, all areas shall be seeded and mulched or when a new construction is contemplated on the same premises the excavation or basement shall be enclosed with a fence, guard rail or other approved means to safeguard the public. (Ord. No. 8436, 1-8-1979, ' 3; Ord. No. 8668, 9-12-1983, ' 2. Ord. No. 1057, §3, 6-25-2018)

Article IV. Building Appeal Board.

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 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. The building official shall be appointed as ex officio members of the board 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 or commercial building construction; one member shall work in the area of building materials supply; 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)

(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 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;

(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. (Ord. No. 8436, 1-8-1979, § 4; Ord. No. 8544, 11-3-1980, §§ 1, 2; Ord. No. 8819, 12-15-1986, § 5; Ord. No. 9048, 10-7-1991, § 1; Ord. No. 9511, 11-13-2001, § 1; Ord. No. 9629, 10-27-2003, § 1; Ord. No. 9680, 7-12-2004, § 2; Ord. No. 10125, 11-28-2011, § 1; Ord. No. 10250, 9-9-2013, § 1. Ord. No 10893, 7-15-2024, Sec. 1)

Sec. 10-6. Repealed by Ordinance No. 8544, 11-3-1980, ' 9.

Article V. Repealed.

Sec. 10-7. Repealed by Ordinance No. 9680, 7-12-2004, ' 3.

Article VI. Building Contractors.

Sec. 10-8. Definitions.

For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

Building contract. An agreement, whether oral or written or contained in one or more documents, between a building contractor and an owner, obligating the building contractor to erect, improve, construct, convert or alter any structure, sidewalk or driveway, and includes all labor, services and materials to be furnished and performed thereunder.

Building contracting business. The business of soliciting, executing or performing building contracts either directly or through an agent with an owner.

Building contractor. Any person who owns or operates a building contracting business or who enters into, attempts to enter into or agrees to enter into any building contract, with an owner.

Building inspector. The building official of the city of Duluth and their designated agents or employees.

Owner. Any person who orders, contracts for, or purchases the services of a building contractor in a building contract or any person who is legally entitled to the performance of the work of a building contractor pursuant to a building contract.

Person. An individual, partnership, limited partnership, joint venture, corporation, association, business trust or any organized group of persons or combination thereof.

Structure. That which is built or constructed and which is composed of parts joined in a definite configuration and which is built into, affixed, or attached to a building or other real property. (Ord. No. 8160, 6-30-1975, ' 1; renumbered by Ord. No. 8436, 1-8-1979, ' 6; Ord. No. 8544, 11-3-1980, ' 3; Ord. No. 9048, 10-7-1991, ' 2.)

Sec. 10-9. Repealed by Ordinance No. 8544, 11-3-1980, ' 9.

Secs. 10-10 to 10-15. Repealed by Ordinance No. 9048, 10-7-1991, ' 5.

Sec. 10-16. Required practices.

All building contractors operating in the city of Duluth shall:

(a) Pay all subcontractors and suppliers so that no liens are filed against the owner's property, and furnish such owner upon its request with waivers of liens from all subcontractors and suppliers within 30

days of the completion of any job; except the filing of a lien by a subcontractor or materialman shall not be deemed a violation of this provision if a satisfaction of lien is furnished within 30 days of notice of said lien; and further except that where any subcontractor or suppliers bill is the subject of a bona fide dispute in a legal action, no waivers need be furnished until the determination of such action. "Legal action" in this Section shall include any type of arbitration or third party determination of the dispute recognized by the building construction trade;

(b) Furnish to the owner, at the time of signing, a copy of all written documents which the owner is requested to sign;

(c) Before starting work of any kind on a job, except an emergency job, where time is of the essence, where the total contract price of materials, labor and services exceeds \$100, enter into a written contract or written agreement with the owner. Any such agreement shall contain the following:

(1) Total contract price if ascertainable, and if not, a statement of the hourly labor charge, the percentage markup on materials, and an estimate of total cost;

(2) The specific work to be done;

(3) The material to be used, describing it by brand name, if possible, and by weight, size and color;

(4) Guarantees or warranties made to the owner, setting forth the person making the guarantee or warranty, and any and all exclusions, exceptions, and limitations as to the cost of repair, replacement of parts, service charges, and labor charges;

(5) The approximate date when the work will be substantially completed. The dates required hereunder are subject to strikes, acts of God and availability of materials;

(6) A statement by the building contractor agreeing to restore and repair any part of the property of the owner destroyed or damaged, where such damage results from the negligent acts of the building contractor, their agents or subcontractor. (Ord. No. 8160, 6-30-1975, ' 1; renumbered by Ord. No. 8436, 1-8-1979, ' 6; Ord. No. 9048, 10-7-1991, ' 3. Ord No. 10892. 7-15-24, Sec. 1)

Sec. 10-17. Prohibited acts.

No building contractor operating in the city of Duluth, or their agent, shall:

(a) Make any material misrepresentation in the procurement of any building contract, or make any false promise likely to influence, persuade or induce another to enter into a building contract;

(b) Gain entry or access into a prospective customer's home or onto their property under the guise of any governmental inspection, right or duty, or under the guise that the building contractor or their agent is a government or public utility inspector or representative;

(c) Falsely represent that maintenance, service, or repairs and replacement parts for items sold by him are and will be available within the immediate area;

(d) Ask or require an owner to sign a completion form before the work or job is completed in accordance with the provisions of the building contract;

(e) Fail to disclose in any advertisement that the advertised price or offer does not include delivery or installation, if such is the case;

(f) Falsely represent to the prospective customer that their property is or will be condemned if no work is done;

(g) Fraudulently execute or alter any building contract, mortgage, promissory note or other document made pursuant to a building contracting transaction;

(h) Willfully disregard and violate any of the building, housing, sanitary, health, or fire laws or ordinances of the state of Minnesota or the city of Duluth;

(i) Transact any business relating to building contracting under any name other than the one under which he is licensed;

(j) Willfully disobey or fail to comply with any order, demand, or requirement made in writing by the board pursuant to building official;

(k) Offer to pay credit charges or offer any compensation or reward to any prospective customer as an inducement to enter into a building contract;

(l) Offer to pay a loan as an inducement to get a prospective customer to enter into a building contract;

(m) Willfully deviate from or disregard plans or specifications under any building contract in any material respect without the prior written consent of the owner;

(n) Display a false or forged license. (Ord. No. 8160, 6-30-1975, ' 1; renumbered by Ord. No. 8436, 1-8-1979, ' 6; Ord. No. 9048, 10-7-1991, ' 4. Ord No. 10892. 7-15-24, Sec. 1)

Secs. 10-18 to 10-22. Repealed by Ordinance No. 9048, 10-7-1991, ' 5.

Article VII. Electricity.

Sec. 10-23. Permits required.

No person shall commence the installation, construction or alteration of any electrical wiring for heat, light or power purposes or the installation of any electrical appliance, fixture or apparatus regulated by the provisions of the State Building Code until proper application has been made for a permit for such proposed work and without first obtaining a separate permit for such proposed work from the building official; however, no permit or application for a permit shall be required for the adjustment, repair or replacement of worn or defective parts of any electrical appliance, fixture, or apparatus if the wiring to same will not be replaced. (Ord. No. 8544, 11-3-1980, ' 7.)

Sec. 10-24. Application.

(a) The applicant for an electrical permit shall, at the time application for permit is made, submit and file with the building inspection division such plans and specifications as are required by the building official;

(b) The applicant shall make application for electrical permits upon official forms furnished by the building inspection division for such purpose;

(c) The applicant shall state on such application blank forms the total estimated cost of such work or installation and properly and correctly answer all necessary questions relative to the work proposed to be done under the permit issued on such application;

(d) The application shall, in all cases, be accompanied by a permit fee as provided in Section 10-2 of this Chapter. (Ord. No. 8544, 11-3-1980, ' 7. Ord No. 10892. 7-15-24, Sec. 1)

Sec. 10-25. Electrical inspections required.

(a) All electrical work installed or altered in or upon any building, tent or structure, whether temporary or permanent, shall be under the supervision and regulation of the building official. All such work shall be executed and maintained in conformity with the provisions of the State Building Code;

(b) The building official is hereby authorized, empowered and directed to order changes in the installation or maintenance of any electrical wiring for light, heat or power purposes or of any electrical devices used in or upon or attached to any building, tent or other structure, when found improperly installed or which have, by usage or otherwise, become in violation of the State Building Code, and shall supervise a systematic reinspection for this purpose. It shall be their duty to order and require that proper and sufficient protection is placed around dangerous electrical wiring and appliances so as to prevent fire or accidents or danger to life or property, when in their judgment such orders are necessary;

(c) The building official shall, in cases where any defective wiring or defective appliances, fixtures or apparatus are installed or improperly used or located, disconnect the power supply to such wires, appliances, fixtures or apparatus, or otherwise render the same inoperative, when any condition is found which would, in their opinion, endanger life or property. No person shall operate any such wiring, apparatus, fixtures or appliances or reconnect the same to any electrical system for light, heat or power purposes until they have been put in a safe condition, and a certificate of approval has been issued from the building inspection division;

(d) It shall be the duty of the person in charge of any electrical installation for which permits are required by the provisions of this Chapter to notify the building official when such work is ready for inspection;

(e) All work shall be left uncovered and convenient for inspection until fully approved by the proper official of the building inspection division;

(f) No notice or request calling for an inspection shall be sent to the building official until the work to be inspected is entirely ready;

(g) It shall be the duty of the building official to cause an inspection to be made of all wiring or installation of appliances, fixtures or apparatus for which permits have been taken out within one working day after receiving notice that any such work is ready for inspection. (Ord. No. 8544, 11-3-1980, ' 7.)

Sec. 10-26. Electrical permit required, administration of electrical permits.

(a) No person shall put into operation or use any electrical apparatus, appliance or fixtures, the use or installation of which is regulated by the provisions of the State Building Code or use or permit the use of any electrical wiring in or upon or attached to any building, tent or other structure regulated by the provisions of the State Building Code until an approved final permit has been issued.

(b) No person generating or furnishing electrical current for light, heat or power shall connect its system with or furnish electric current for light, heat or power purposes to any building, tent or other structure or attach to any building, tent or other structure or to any wiring system connected with any apparatus and appliance regulated by the State Building Code until such wiring or installation has been inspected and an approved final permit has been issued.

(c) The administration and enforcement of the electrical code is performed under the authority of the State of Minnesota. In the event the administration and enforcement of the electrical code by the state is interrupted, the city shall enter into an agreement with the state to maintain administration and enforcement. The agreement shall include the requirements set forth in Minn. Rule Part 1300.0050, Chapter 1315 or its successor. Such agreement shall terminate upon reinstatement of state authority.

(d) . (Ord. No. 8544, 11-3-1980, ' 7. Ord. No. 10889, 6-3-2024, Sec. 1)

Sec. 10-27. Disconnection of unsafe wiring.

The public or private electrical utilities providing service shall disconnect the same upon a written order from the building inspection division if that division considers any electrical installation unsafe to life and property or installed contrary to the State Building Code.

When existing wiring is replaced, it shall, wherever it is exposed, be completely removed. In all instances, even where it is not exposed, it shall be removed to the extent that is necessary to prevent it from being re-energized. (Ord. No. 8544, 11-3-1980, ' 7.)

Sec. 10-28. Service disconnects.

Where service is supplied by the public electric utility:

(a) That utility shall supply meter connection boxes or sockets and instrument transformers and meters. The service entrance conduit and conductors, meter connection box, main service panel, and instrument transformers shall be installed by a licensed electrical contractor or licensed employee thereof;;

(b) If a meter connection box or socket is supplied, it shall be installed on the line side of the service disconnect. Switchboard meter installations do not require a connection box or socket;

(c) If instrument transformers are supplied, they shall be installed on the load side of the service disconnect, except for those installations having more than one service disconnect. If more than one service disconnect is installed, the instrument transformers shall be located on the line side of the service disconnects, and shall have mountings approved by the building inspection division. Instrument transformers and mountings shall be enclosed in a cabinet having a sealable crew cover which shall be supplied by the master electrician, except on switchboard installations, or shall be installed in accordance with specifications and regulations of the public utility supplying such transformers;

(d) The top of the connection box or socket for meters shall be placed from four to six feet from the floor or ground, except by special permission from the electrical utility service provider;

(e) All service disconnects shall be located at a location approved by the building official and the serving public utility. In approving a location, the building official shall take into account location of the serving power pole, ease of maintenance of the serviced structure, and other structures or trees in area.

In buildings having multiple occupancy, the service disconnects and the meter connection boxes or sockets shall be marked by the master electrician to designate the number of locations of the area served. (Ord. No. 8544, 11-3-1980, ' 7. Ord No. 10892. 7-15-24, Sec. 1)

Sec. 10-29. State license required.

(a) Except as otherwise provided in this Chapter, no permit for the erection, construction, alteration or change of any electrical work or wiring in the city of Duluth shall be issued by the building official to any person unless he is licensed by the Minnesota state board of electricity as an electrical contractor. Every applicant for such a permit shall furnish the building official with a certificate from the Minnesota state board of electricity stating that he holds an electrical contractor's license or master electricians license;

(b) No person shall perform any electrical work of any kind for another in the city of Duluth unless he is licensed to perform such work by the Minnesota state board of electricity, or is otherwise permitted to perform such work under the provisions of Minnesota state law;

(c) A licensed electrician performing electrical work for another shall carry Their license with him during all hours of employment and shall produce this license upon request of the building official or their agent or upon request of the person for whom the work is being done. (Ord. No. 8544, 11-3-1980, ' 7. Ord. No. 1057, §4, 6-25-2018. Ord No. 10892. 7-15-24, Sec. 1)

Sec. 10-30. License--not required of owners of dwellings.

Any individual who otherwise complies with this Chapter may be issued a permit for the erection, construction, alteration or change of electrical work or wiring in or on a single-family dwelling which is owned and occupied by such individual or which such individual is constructing for their occupancy. Before such a permit shall be issued, the individual making application for the permit shall sign an affidavit stating that he is the owner and occupant of the single-family dwelling and that the work or wiring will be performed by the individual signing the affidavit. (Ord. No. 8544, 11-3-1980, ' 7. Ord No. 10892. 7-15-24, Sec. 1)

Sec. 10-31. Permission to install meter required.

No person within the corporate limits of the city shall install any meter designed for use or to be used for the commercial measurement of electric current supplied or to be supplied to any dwelling, building structure, or part thereof, or any other place without first obtaining written permission from the electrical utility service provider(Ord. No. 8544, 11-3-1980, ' 7. Ord No. 10892. 7-15-24, Sec. 1)

Article VIII. Plumbing.

Sec. 10-32. Permits required.

(a) No person shall proceed with the installation of any plumbing work in any building or structure, any work on any premises which is to be used in connection with any plumbing in any building or structure or the alteration of any existing plumbing work used in connection with any building or structure without first procuring a separate permit for such work from the building official; provided, that no permit shall be required for the removal of stoppages, the repairs of leaks, the replacing of fixtures and appurtenances connected therewith;

(b) No private sewer or house drain shall be laid without a permit and no such sewer or drain shall be covered over or used until inspected and approved by the building official. (Ord. No. 8544, 11-3-1980, ' 8.)

Sec. 10-33. Applications, fees and plans.

(a) The applicant shall make written application for plumbing permits upon official blank forms, furnished by the building official for such purpose. The applicant shall state on such application blanks the total estimated cost of the work and properly and correctly answer all other necessary questions relative to the work proposed to be done under such permit;

(b) The application shall be accompanied by a permit fee as provided in Section 10-2 of this Chapter;

(c) The applicant for a plumbing permit shall, at the time of making application, submit and file such plans and specifications as are required by the building official. (Ord. No. 8544, 11-3-1980, ' 8.)

Sec. 10-34. State license required.

Except as otherwise provided herein, no permit for the erection, construction, alteration or change of any plumbing work or piping shall be issued by the building official to any person unless he is licensed by the State of Minnesota as a plumbing contractor.

The building official may issue a permit to a person who does not hold a master plumber's license to perform plumbing work or piping of any kind on a single-family dwelling owned and occupied by him as a residence except the installation or replacement of house sewers.

No person shall perform any plumbing work of any kind for another in the city of Duluth unless he is licensed by the State of Minnesota to do so, except an apprentice to a licensed plumber working under the direct supervision of such licensed plumber.

A licensed plumber performing plumbing work for another shall carry their license with him during all hours of employment and shall produce their license upon request of the building official or their agent or upon request of the person for whom the work is being done. (Ord. No. 8544, 11-3-1980, ' 8. Ord No. 10892. 7-15-24, Sec. 1)

Sec. 10-34.1. Backflow preventers--testing and registration fee.

Installation, maintenance and testing of backflow preventers shall be according to the state of Minnesota Plumbing Code. Annual testing of testable backflow prevention device or assembly is required by the Minnesota State Building Code. Upon receipt of notice for annual testing from the building official, property owners shall have 30 days in which to have backflow preventer testing accomplished by a person certified by the state of Minnesota to perform such testing and to furnish such test results to the building official. All such test results shall contain the certification of the individual performing the test. The building official may assess a registration fee to the property owner for administering the backflow preventer testing program, such fee shall be set in accordance with Section 31-6(a) of this Code. Failure to comply with the provisions of this Section shall be cause to terminate water service upon ten days notice. (Ord. No. 9840, 6-11-2007, ' 1. Ord. No. 1057, §5, 6-25-2018)

Article IX. Outdoor High Intensity Lighting.

Sec. 10-35. Repealed by Ordinance 1892, 7-15-2024)

Sec. 10-36. Repealed by Ordinance 1892, 7-15-2024)

Sec. 10-37. Repealed by Ordinance 1892, 7-15-2024)

Sec. 10-38. Repealed by Ordinance No. 9039, 9-9-1991, ' 3.

Sec. 10-39. Repealed by Ordinance 1892, 7-15-2024)