

**ORDINANCE NO. 2011-02**  
**AN ORDINANCE AMENDING THE EDINA CITY CODE**  
**CONCERNING BOARDS AND COMMISSIONS**

**THE CITY OF EDINA ORDAINS:**

**SECTION 1.** The Edina City Code is amended by deleting Sections 121 140, 146, 180, 400, 801, 805, 1220, 1221, and 1225, subsection 700.03 and subsection 850.04, Subd. 1.A and 1.5 of the City Code.

**SECTION 2.** The Edina City Code is amended by adding Chapter 15 to provide as follows:

**CHAPTER 15. BOARDS AND COMMISSIONS**

**Section 1500 – General Provisions**

**1500.01 Establishment**

**A. Authority to Establish.** Pursuant to Minnesota Statutes 412.621, and other such statutes as are specifically cited herein, the Council establishes or continues the following boards and commissions to advise the Council with respect to municipal functions and activities and to investigate subjects of interest to the City.

**B. How Established.** A board or commission may be established by a majority vote of the Council. An ordinance shall be adopted prescribing the purpose, duties, and composition of the board or commission.

**C. Subject to Provisions in This Chapter:** All boards and commissions established by the Council shall be subject to the provisions of this Chapter, unless otherwise specified in City ordinance or State law.

**D. Purposes and Duties Generally.** All boards and commissions established by the Council shall be advisory to the Council and shall have the responsibility to:

Investigate matters within the scope of the particular board or commission or as specifically directed by the Council.

Advise the Council by communicating the viewpoint or advice of the board or commission.

At the direction of the Council, hold hearings, receive evidence, conduct investigations, and, on the basis of such hearings, evidence and investigations, make decisions and recommendations to the Council.

**E. Advisory Role.** A board or commission established by the Council may shall not assume the role of an administrative or legislative body.

**1500.02 Cooperation of City Officials Subject to Direction of City Manager.** The Manager may make available City staff members to record and prepare minutes of board and commission meetings. Such staff members shall perform only such clerical duties on behalf of a board or commission as provided in the bylaws of that board or commission or as assigned by the chairperson with the consent of the Manager. The Manager may assign additional staff to assist a board or commission.

**1500.03 Membership**

**A. Regular members.** Regular members of boards and commissions established by the Council shall be adult residents of the City unless otherwise expressly stated by ordinance. Members who discontinue legal residency in the City shall automatically be deemed to have resigned from office as of the date of such discontinuance.

**B. Student Members.** Student members shall be residents of the City and enrolled full time in a secondary school. Student members shall be non-voting.

#### **1500.04 Appointment and Terms of Membership**

**A. Regular Members.** Board and commission members shall be appointed by majority vote of the Council and shall serve terms of membership not to exceed three years per term. Each member is eligible to serve two three-year terms, except for members of the Planning Commission, who are eligible to serve three three-year terms. A member in good standing shall serve until a successor has been appointed.

**B. Student Members.** Student members shall be appointed by majority vote of the Council and shall serve terms of membership not to exceed one year per term.

**C. Resignation and Removal.** Members shall serve without compensation and may resign voluntarily by letter or e-mail to the City Clerk or be removed by majority vote of the Council or pursuant to subsections 1500.03 or 1500.09.

**D. Vacancies.** Vacancies in membership shall be filled by majority vote of the Council for the balance of the unexpired term.

**E. Term of Appointment to Fill Vacancy.** A person appointed to fill a vacancy shall be eligible to serve two (or for Planning Commission, three) full terms in addition to the balance of the unexpired term.

**F. No Concurrent Membership.** No person may serve concurrently on more than one board or commission.

**G. Staggered Terms.** Terms of membership shall be staggered so that no more than one-half of the terms on a board or commission expire in any particular year.

#### **1500.05 Committees and Subcommittees**

**A. Establishment.** A board or commission may, with specific approval of the Council or pursuant to its bylaws, establish committees, subcommittees, committees of the whole or working groups that include members of the board or commission and additional persons as requested by the board or commission.

**B. Prohibition.** A committee, subcommittee, committee of the whole or working group may not engage in activities, functions, or duties outside the scope of authority granted to the board or commission by which it was established.

#### **1500.06 Organization and Bylaws**

**A. Bylaws.** Each board or commission shall adopt and be governed by such bylaws as shall be necessary and desirable for the conduct of its activities. Bylaws shall be subject to review and approval by the Council.

**B. Chairperson.** Each board or commission annually shall elect from its members a chairperson and vice-chairperson to serve a term of one year. No person shall serve more than two consecutive one-year terms as chairperson of a particular board or commission.

#### **1500.07 Meetings**

**A. Regular Meetings.** All board and commission meetings are open meetings subject to the Minnesota Open Meeting Law (Minnesota Statutes 13D) and shall be held at a fixed time, on a fixed date and in a fixed place as shall be determined by the board or commission. The City Clerk shall give notice of all board and commission meetings as required for meetings of public bodies.

**B. Public Comment.** All board and commission meetings shall include scheduled time for public comment.

**C. Meetings Conducted According to Bylaws.** All meetings shall be conducted according to the bylaws of the board or commission.

#### **1500.08 Meeting Minutes**

**A. Official Record.** Approved minutes of board or commission proceedings shall be public record; the City shall retain a copy of the official minutes of each board or commission meeting in accordance with applicable state law.

**B. Recording.** A board or commission may appoint from its membership a secretary to record and prepare meeting minutes. Minutes so recorded shall be reviewed and approved by the board or commission and a copy forwarded to the City Clerk. In the alternative, the Manager may make available to the board or commission a member of City staff to serve as secretary to record and prepare meeting minutes.

**C. Distributed to City Council.** Official minutes of each board or commission meeting shall be distributed to the Council prior to the first regular Council meeting after approval of the minutes by the board or commission.

#### **1500.09 Attendance Requirements**

**A. Purpose.** To assist boards and commissions in fulfilling their purposes and duties and to ensure that they are not prevented from doing so by the repeated absence of their members, the Council hereby establishes an attendance policy for members serving on boards and commissions.

**B. Removal.** Any member of a board or commission established by the Council who fails to attend three consecutive regular meetings, or who fails to attend at least 75% of the scheduled meetings in any calendar year, whether regular or joint work sessions with the Council, shall be deemed to have resigned as a member of the board or commission.

**C. Exceptions.**

(1) The requirements of this subsection shall not apply to attendance at special meetings, or of meetings of committees or subcommittees, including committees of the whole, established by a board or commission pursuant to Subsection 1500.05.

(2) The requirements of this subsection shall not apply to members of the Housing and Redevelopment Authority of Edina, the East Edina Housing Foundation or the City Council.

**D. Annual Review.** The Council shall conduct an annual review of the attendance of members of boards and commissions established by the Council.

**E. Vacancies.** The successor to any member of a board or commission who has been removed pursuant to this subsection shall be appointed pursuant to Subsection 1500.04.

### **Section 1501 - Human Rights and Relations Commission**

**1501.01 Policy Statement.** It is the public policy of the City of Edina to:

- A. Secure for all of the residents of the City freedom from discrimination because of race, color, creed, religion, age, sex, sexual orientation, marital status, disability, status with regard to public assistance, familial status or national origin in connection with employment, housing and real property, public accommodations, public services, credit and education.
- B. Support the home, family and human relations in the City.
- C. Cooperate with the State Department of Human Rights, the Minnesota League of Human Rights Commissions and other agencies in their programs of human rights.

**1501.02 Establishment and Purpose.** To promote and help implement the above policies, the Council hereby establishes the Edina Human Rights and Relations Commission (the "Commission").

**1501.03 Duties.** The Commission shall:

- A. Advise the Council on matters relating to discrimination and human relations referred to herein.
- B. Implement such programs of education and community action which are designed to effectuate the public policy stated in Subsection 1501.01 and which have been approved by the Council.
- C. Cooperate with the State Department of Human Rights, the State League of Human Rights Commissions and other agencies and programs that relate to the public policy stated herein.
- D. Investigate, study, report and undertake other functions as are assigned to local commissions under and pursuant to Minnesota Statutes 363, and to discharge its duties under M.S. 363 with regard to specific matters referred to it by the State Commissioner of Human Rights or filed with it by individuals.

**1501.04 Membership.** The Commission shall consist of nine regular and two student members.

### **Section 1502 - Energy and Environment Commission**

**1502.01 Policy and Establishment.** The Council, recognizing the need to support and advance environmental protection, conservation efforts including energy conservation, and waste reduction, and to improve thereby the overall welfare of the citizens of the City, does hereby establish the Energy and Environment Commission (the "Commission").

**1502.02 Duties.** The Commission shall:

- A. Examine and recommend best practices for energy conservation for Edina's citizens and businesses, including a "green" building code, use of Energy Star appliances, and other energy reduction targets.
- B. Examine and recommend changes in City Government purchasing and operations to conserve energy.
- C. Evaluate and monitor the provision of a residential recycling program.
- D. Evaluate and monitor the provision of a privately provided solid waste program, as well as a reduction in municipal solid waste produced by Edina residents and businesses.
- E. Evaluate and encourage improvements in air and water quality.
- F. Promote the establishment of targets for the reduction of greenhouse gas emissions produced by the City's buildings, equipment and operations.
- G. Educate the public about energy issues, reduction, conservation, reuse, recycling and environmental protection.
- H. Examine and promote renewable energy options for transportation, heating, and cooling, and other energy uses.

**1502.03 Membership.** The Commission shall consist of ten regular and two student members.

**Section 1503 – Community Health Committee**

**1503.01 Establishment.** The Council, acting as the Community Health Board pursuant to Minnesota Statutes 145A and Section 700 of this Code, hereby establishes the Community Health Committee.

**1503.02 Purpose and Duties.** The Community Health Committee shall study and advise the Community Health Board regularly on community health activities designed to protect and promote the health of the population by emphasizing the prevention of disease, injury, disability, and preventable death through the promotion of effective coordination and use of community resources and by extending health services into the community.

**1503.03 Membership.** The Community Health Committee shall consist of nine regular and two student members. Members shall include, if possible, providers and consumers of health care services.

**1503.04 Subject to General Provisions Governing Boards and Commissions.** The membership and operations of the Community Health Committee shall be governed by Section 1500 of this Chapter.

**Section 1504 - Heritage Preservation Board**

**1504.01 Policy and Establishment.** The Council finds that historically significant buildings, sites, structures, objects and districts represent scarce, non-renewable heritage resources that are critical assets for community development; that heritage preservation is an important public service and a legitimate responsibility of City government; and that the preservation, protection and enhancement of significant heritage resources for the benefit of present and future citizens is a public necessity. Therefore, pursuant to Minnesota Statutes §471.193, the Council continues the Heritage Preservation Board (the "Board") as the City's heritage preservation commission.

**1504.02 Purpose.** The Board shall assist and advise the Council, Manager, and other City boards and commissions on all matters relating to heritage resource preservation, protection and enhancement. The Board shall safeguard the significant heritage resources of the City by identifying significant heritage resources and nominating them for designation by the Council as Edina Heritage Landmarks; by developing and maintaining a comprehensive preservation plan; by reviewing applications for City permits in relation to properties designated as Edina Heritage Landmarks; and by encouraging the preservation, rehabilitation, restoration, and reconstruction of significant heritage resources through public education.

**1504.03 Definitions.** Unless otherwise stated, or unless the context clearly indicates a different meaning, the words or phrases in the following list of definitions shall, for the purposes of this chapter, have the meanings indicated:

**Certificate of Appropriateness.** A certificate issued by the City Planner and attached to a City permit evidencing compliance with the City's comprehensive heritage preservation plan.

**City Planner.** City staff member responsible for zoning administration.

**Comprehensive Heritage Preservation Plan.** The official guide plan for implementing the City's heritage resource preservation policies, adopted by the Council, that establishes goals and priorities and integrates heritage preservation with other planning data.

**Edina Heritage Landmark.** Any heritage resource so designated by the Council that is significant in history, architecture, archeology, or culture and therefore worthy of preservation and consideration in City planning.

**Evaluation.** The process of determining whether identified heritage resources meet defined criteria of historical, architectural, archeological, or cultural significance.

**Heritage Preservation Board.** The heritage preservation advisory commission appointed by the Council.

**Heritage Resource.** Any prehistoric or historic building, site, structure, object or district that has historical, architectural, archeological, or cultural value to the citizens of Edina, the State of Minnesota, or the United States.

**Preservation.** The act or process of applying measures to sustain the existing form, structure, integrity, and material of a heritage resource.

**Reconstruction.** The act or process of reproducing by new construction the exact form and detail of a vanished building, structure, or object as it appeared during a specific period of time.

**Rehabilitation.** The act or process of returning a heritage resource to a state of utility through repair or alteration that makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural, archeological, or cultural values.

**Restoration.** The act or process of accurately recovering the form and details of a heritage resource and its setting as it appeared at a particular period of time by means of removal of later work or by the replacement of missing historic features.

**Significance.** The heritage preservation value of buildings, sites, structures, objects, and districts that are linked to important historical events or persons, or that represent notable expressions of architecture or engineering, or that have yielded important information about prehistory or history.

**Survey.** The physical search for and recording of heritage resources that result in an inventory of buildings, sites, structures, objects and districts worthy of consideration in City planning.

**1504.04 Duties and Responsibilities.** The Board shall:

- A. Advise the Council, Manager, and other City boards and commissions and provide leadership for implementing the heritage preservation chapter.
- B. Develop and maintain a comprehensive plan for heritage resource preservation to ensure that community development policies and decisions respect the City's heritage and promote stewardship of heritage resources.
- C. Conduct an ongoing survey of historic buildings, sites, structures, objects, and districts and maintain an inventory of the heritage resources in the City.
- D. Conduct evaluations to determine the eligibility of heritage resources for designation as Edina Heritage Landmarks.
- E. Nominate heritage resources for designation as Edina Heritage Landmarks by the City Council.
- F. Review City permit applications in relation to Edina Heritage Landmarks and make recommendations to the City Planner with respect to issuance of certificates of appropriateness.
- G. Review and make recommendations to the Planning Commission on development projects that affect properties designated heritage landmarks or determined eligible for designation as heritage landmarks.
- H. Inform and educate citizens about the City's heritage and the benefits of preservation.
- I. Develop regulatory and incentive programs that facilitate heritage preservation.
- J. Adopt rules of procedure, subject to Council approval, to guide the Board's deliberations.
- K. Prepare an annual report to the Council, describing the Board's accomplishments during the past year and presenting goals and objectives for the coming year.

**1504.05 Membership.**

- A. The Board shall consist of nine regular and two student members. Members shall have a demonstrated interest, knowledge, ability or expertise in heritage preservation. At least one member shall be a qualified professional historian, architect, architectural historian, archeologist, planner, or the owner of a heritage landmark property.

**B. Edina Historical Society Membership.** A member of the Board shall be a member of the Edina Historical Society.

**C. County Historical Society Membership.** A member of the Board shall be a member of the Hennepin County Historical Society.

**1504.06 Professional Staff.** The Manager shall provide the Board with professional staff with expertise in heritage preservation.

**1504.07 Repository for Documents.** The office of the Manager shall be the repository for all minutes, reports, studies, plans and other official documents produced by the Board.

### **Section 1505 - Planning Commission**

**1505.01 Establishment.** The Planning Commission (the "Commission") of the City is to continue. It shall serve as the planning agency within the meaning of Minnesota Statutes 462.351 through 462.364. In such capacity, the Commission shall be advisory to the Council.

**1505.02 Powers, Duties, and Responsibilities.** The Commission shall:

A. **Comprehensive Plan.** Prepare, review, and make recommendations to the Council as to the Comprehensive Plan of the City, as defined in Section 835 of this Code, or any other sections of this Code, including, but not limited to, a land use plan, a transportation plan, a community facilities plan, a capital improvements program, a parks and open space plan, and a housing plan, with recommendations as to plan execution.

B. **Platting.** Review and make recommendations to the Council as to all proposed plats and subdivisions, as defined in Section 810 of this Code, in accordance with the provisions of Section 810 and State law.

C. **Zoning.** Review and make recommendations to the Council as to all proposed amendments to Section 850 of this Code, in accordance with the provisions of Section 850 and State law.

D. **Heritage Preservation.** Review and make recommendations to the Council as to the reports and recommendations of the Heritage Preservation Board regarding preservation of lands and buildings of historical, architectural, cultural, and educational significance pursuant to Subsection 850.20 and Section 1504 of this Code.

E. **Low and Moderate Cost Housing.** Review and make recommendations to the Council as to matters referred to it by the Council relating to the provision of low and moderate cost housing.

F. **Commercial, Industrial, or Residential Redevelopment.** Review and make recommendations to the Council on matters the Council may request relating to major commercial, industrial, or residential redevelopments in the City.

**1505.03 Representatives to Zoning Board of Appeals.** All members of the Commission except student members are to continue as representatives of the Commission to the Zoning Board of Appeals. Any such representative is authorized to review and report, for or on behalf of the Commission, to the Zoning Board of Appeals on matters coming before the Zoning Board of Appeals.

**1505.04 Membership.** The Commission shall consist of nine regular and two student members, appointed with due regard to their fitness for the efficient dispatch of the functions, duties, and responsibilities vested in and imposed upon the Commission.

**1505.05 Staff.** The Planning Department shall coordinate staff services, including secretarial, to assist the Commission in its work. The Manager may assign additional City staff as needed. Staff shall keep and maintain a written record of the Commission's actions, resolutions, recommendations and findings which shall be a public record.

## **Section 1506 – Zoning Board of Appeals**

**1506.01 Establishment.** There is continued a separate Zoning Board of Appeals (“Board”) of the City, to serve as the board of appeals and adjustments pursuant to Minnesota Statutes 462.354, Subdivision 2.

**1506.02 Powers and Duties.** The Board shall have the power and duty of hearing and deciding, subject to appeal to the Council, the following matters:

1. Requests for variances from the literal provisions of Section 850 of this Code.
2. Appeals in which it is alleged that there is an error in any order, requirement, decision or determination made by an administrative officer in the interpretation or enforcement of Section 850 of this Code.
3. Requests for variances from the literal provisions of Section 1046 of this Code.
4. Requests for variances from the requirements of Section 815 of this Code.

**1506.03 Membership.** All members of the Planning Commission (“Commission”) shall be members of the Board from time to time. At least one Commission member shall be in attendance at each Board meeting, and shall be deemed to be the representative of the Commission for purposes of review and report by the Commission as required by Minnesota Statutes 462.354, Subdivision 2.

In addition, six regular members shall be appointed to the Board pursuant to Subsection 1500.04.

**1506.04 Hearings.** A quorum shall consist of three members as defined by Subsection 1506.03. At a maximum, the Board at a particular hearing shall consist of no more than five members.

The Commission member in attendance with the longest continuous service on the Commission shall serve as chair for that particular hearing.

The Board shall make no decision until the Commission or its representative has had reasonable time, not to exceed 60 days, to review the matter in question and report to the Board.

**1506.05 Staff.** The Planning Department shall furnish and coordinate staff services, including secretarial, to assist the Board in its work. The Manager may assign additional staff as needed. Staff

shall keep and maintain a written record of the Board's actions, resolutions, recommendations and findings, which shall be a public record.

### **Section 1507 - Park Board**

**1507.01 Establishment.** The Council, in order to provide for a City park and open space system and a City recreation program does hereby establish the Park Board.

**1507.02 Duties.** The Park Board shall develop and review plans and advise the Council on the acquisition and development of parks and recreation facilities, and plan and make recommendations to the Council concerning park activities and recreation programs. The Park Board shall advise the Council on natural resource, wildlife management, and natural area preservation issues. The Park Board shall make and furnish studies, reports and recommendations as the Council may request.

**1507.03 Membership.** The Park Board shall consist of ten regular and two student members. One regular member shall also be a member of the Board of Education of Independent School District No. 273, appointed for a one-year term by the Board of Education with the consent of a majority of the Council.

### **Section 1508 - Art Center Board**

**1508.01 Establishment.** The Council, finding that the encouragement and enhancement of the arts in Edina is vital to the social and cultural well being of the City and its residents, does hereby establish the Art Center Board (the "Board").

**1508.02 Duties.** The Board shall:

- A. Make recommendations regarding the operation of the Edina Art Center.
- B. Plan and recommend to the Council art activities and programs.
- C. Develop a long term plan directed towards fulfilling the needs and desires of Edina residents with respect to the arts.
- D. Recommend programs at the Edina Art Center that are responsive to community desires.
- E. Periodically report to the Council on matters pertaining to the Art Center and public art in Edina.
- F. Initiate and oversee fundraising activities that benefit the Art Center and public art in Edina.
- G. Represent the City at community functions pertaining to the visual arts and with similar bodies and organizations involved with the visual arts.
- H. Oversee the development and implementation of a public visual arts program in Edina.
- I. Perform other duties from time to time directed by the Council.

**1508.03 Membership.** The Board shall consist of ten regular and two student members, not more than three of which may be non-residents.

**1508.04 Committees.** The Board shall establish and appoint members to a Public Art Committee which shall be charged with establishing and implementing a public arts program in the City. The Public Art Committee shall be chaired by a person who shall be appointed by the Board chair with the

consent of the Board. The Board may establish other committees for the purpose of carrying out other Board duties.

### **Section 1509 - Transportation Commission**

**1509.01 Policy and Establishment.** The Council finds that the creation and operation of a street and transportation system is an integral part of the long-term vision for the City. The Council also finds that congestion on the regional roadway system and the failure of that system to accommodate the continued growth in traffic volumes has created and exacerbated traffic volumes, speed and congestion on local streets; that such volumes, speed and congestion are adversely affecting the quality of life of the City's residents; that businesses located in the City are adversely affected by the inadequacy of the regional system to move people and goods; and that improving the local transportation system is consistent with the Comprehensive Plan and strategic plans of the City. Therefore, the Council hereby establishes the Transportation Commission (the "Commission").

**1509.02 Purpose and Duties.** The Commission shall:

- A. Advise the Council on matters relating to the operation of the local street system with respect to traffic volumes, congestion, and functional classification, but not maintenance activities, of the City.
- B. Review and comment on plans to enhance mass transit opportunities in the City.
- C. Review the findings of the Local Traffic Task Force and offer recommendations for implementation.
- D. Evaluate methods for traffic calming and other speed and volume mitigation measures and recommend their implementation where appropriate.

**1509.03 Membership.** The Commission shall consist of nine regular and two student members, appointed from the different geographic areas of the City. One member of the Commission shall also be a member of the Bike Edina Task Force or any existing similar organization, or shall otherwise have an expertise or interest in bicycling as a mode of transportation.

### **Section 1510 - Special Board of Appeal and Equalization**

**1510.01 Establishment; Powers and Duties.** The Council does hereby establish a Special Board of Appeal and Equalization (the "Board") and all the powers and duties of the Council under Minnesota Statutes 274.01, Subd. 1, are hereby delegated to the Board.

**1510.02 Membership.** The Board shall consist of five regular members qualified by experience and training to pass upon matters pertaining to property valuations. At least one member shall be an appraiser, realtor, or another person familiar with property valuations in the City of Edina. At least one member of the Board must have attended the appeals and equalization course required by M.S. 274.014. Members shall be appointed for a one-year term.

**1510.03 Rules and Procedures.** The Board shall adopt such reasonable rules and procedures as are necessary and proper to carry out the powers and duties imposed by Minnesota Statutes 274.01.

**1510.04 Staff.** The City Assessor or a designated staff member shall attend all meetings of the Board. A member of City staff shall serve as recording secretary.

### **Section 1511 - Construction Board of Appeals**

**1511.01 Establishment.** The Council does hereby establish the Construction Board of Appeals (the "Board") pursuant to Minnesota State Building Code ("MSBC"), Chapter 1300.0230, adopted by Section 410 of this Code.

**1511.02 Powers and Duties.** The Board shall:

A. Fulfill the duties imposed upon it by MSBC Chapter 1300.0230.

B. Consider appeals from any order, requirement, permit, decision, refusal or determination made by the Building Official or the Sanitarian in the application or interpretation of this Code regulating (i) construction, alteration, moving or demolition of buildings, (ii) the construction, installation, alteration or removal of plumbing, gas piping or equipment, water softening or filtering equipment, (iii) the installation, alteration or removal of electrical wiring and equipment, or (iv) excavations under Section 830. The Board shall not hear any appeal from, nor have any jurisdiction over, actions taken by any official of the City or under Section 470 of this Code, or any section of this Code enforced by means of the procedures set forth in Section 470 of this Code.

C. Study and review new types of materials and methods of construction, and advise the Building Official and the Council as to the suitability of alternate materials and types of construction to assist in progressive development of the provisions of the building, plumbing, heating, gas piping, and electrical codes or sections of this Code, and to make recommendations relative to the Codes.

D. Study and review from time to time the building, plumbing, heating, gas piping, and electrical codes or sections of this Code and similar code provisions applicable in communities surrounding the City and such other codes as may come to their attention, and recommend to the Council such new legislation as the Board may deem desirable.

E. Consider matters referred to the Board by the Council or by the Building Official and make recommendations relative to them.

**1511.03 Waiver of Requirements.** In considering any appeal, the Board, if not prohibited by State Law, may waive any requirement of any of the Code provisions therein referred to, but only if the reason for such requirement does not exist because of the unusual use, location or type of construction of the structure, or if it is demonstrated to the satisfaction of the Board that the purpose of such requirement is met by other means or methods. The Board, in granting any waiver of water or sewer connections required by Section 445 of this Code, shall also make the findings of hardship and non-detriment required by Subsection 445.05 of this Code, and shall condition its waiver on delivery to the City of the agreement required by Subsection 445.05.

**1511.04 Appeals.**

A. **To Board.** Appeals to the Board authorized by Subsection 1511.02 shall be made by filing a written appeal with the Building Official within 30 days of the date of the order, requirement, permit, decision, refusal or determination being appealed. The appeal shall fully state the order, requirement, permit, decision, refusal or determination appealed from, the facts of the matter, the date thereof, and the mailing address of the appellant. Upon the filing of such appeal, the Board shall set a hearing date, give notice of the date, hold a hearing, provide for a record of its proceedings and make its order on the record, all in the same manner as provided for appeals to the Zoning Board of Appeals as set out in Section 850 of this Code.

B. **To Council.** Appeals from any order or decision of the Board may be taken to the Council, and shall be heard and decided by the Council, in the same manner as appeals from decisions of the Zoning Board of Appeals as set out in Section 850 of this Code.

**1511.05 Membership.** The Board shall consist of five regular members who are qualified by experience and training to pass upon matters pertaining to building construction. The Building Official shall be an ex-officio member of and shall act as secretary to the Board, but shall have no vote on any matter before the Board.

**1511.08 Change of Name.** All references in all sections of this Code to the Building Construction Appeals Board or to the Building Construction Codes Commission shall mean and refer to the Board of Appeals created by MSBC Chapter 1300.0230, and called the Construction Board of Appeals in this Code.

**SECTION 3.** This ordinance is effective immediately upon its passage and publication.

First Reading: February 1, 2011  
Second Reading: Waived  
Published: February 10, 2011

Attest Debra A. Mangen, City Clerk

James B. Hovland, Mayor