

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY OF NORTHFIELD, MINNESOTA, ADOPTING
NEW SEC. 34-301, BUILDING CODE BOARD OF APPEALS**

**THE CITY COUNCIL OF THE CITY OF NORTHFIELD, MINNESOTA, DOES
ORDAIN THAT THE FOLLOWING SEC. 34-301 IS HEREBY ADOPTED:**

Sec. 34-301. Building code board of appeals

(a) **Establishment.** There is hereby established a building code board of appeals (the board) pursuant to Minnesota Rules, part 1300.0230.

(b) **Membership; qualifications.** The board shall consist of five members who are qualified by experience and training to pass upon matters pertaining to building construction and who are not employees of the city. If possible, the members shall include a building contractor, an architect, and an engineer. If properly qualified by experience and training, the members shall also include a realtor and a citizen at large. Members shall live within the city limits of the city of Northfield. The building official shall be an ex-officio member of the board but shall have no vote on any matter before the board.

Members shall be appointed by the mayor with approval of the council. Members shall be appointed for a term of three years and shall serve until a successor has been appointed. Regular terms shall commence on January 1. Initial terms shall be shortened or lengthened and thereby staggered so that there will be continuity of representation on the board. Vacancies shall be filled by the mayor with approval of the council to fill any portion of an unexpired term. Members may be appointed to serve successive terms. Members shall serve without compensation.

(c) **Organization.** At the first meeting of each calendar year, the board shall elect from its members a chair and a vice chair, each to serve throughout the year and until a successor is chosen. The board shall follow the rules of the state and the city, provided that it may establish additional procedures and policies so long as they are not inconsistent with any provision of state or local law. The city shall provide a secretary who shall attend all meetings of the board, take minutes, and keep the records of the board.

(d) **Meetings.** The board shall hold an annual meeting in January each year, at which it shall select officers and review its obligations under this ordinance. Otherwise the board shall meet specially upon receipt of an appeal, or upon the call of the chair or any three members of the board. Written notice of all meetings shall be given to the members by the secretary, setting forth the purpose of the meeting. All meetings shall be properly noticed and open to the public unless otherwise provided by state law. A majority of all members of the board shall constitute a quorum to conduct business, but less than a quorum may adjourn from time to time.

(e) Powers and duties.

- (1) The board shall fulfill duties imposed upon it by, and in accordance with, Minnesota Rules, part 1300.0230.
- (2) The board shall hear and decide appeals of orders, decisions, or determinations made by the building official relative to the application and interpretation of the building code. A decision on appeal shall be limited to:
 - a. Whether the true intent of the building code or the rules legally adopted thereunder have been incorrectly interpreted;
 - b. Whether the provisions of the building code do not fully apply; or
 - c. Whether an equally good or better form of construction is proposed.

The board shall have no authority to waive requirements of the building code.

- (3) The board shall render all decisions and findings in writing to the appellant with a duplicate copy to the building official and to the state building official within 15 days of the decision. The decision and findings of the board shall be submitted to the state building official by first class mail, accompanied by a letter stating that if the state building official has concerns about the decision of the board, the state building official is requested to so notify the local building official within 10 days of the date of the letter to the state building official and to inform the local building official of how the state building official's concerns will be addressed.
- (4) The board shall study and review new types of materials and methods of construction and the suitability of alternate materials and methods of construction as such issues arise in the context of an appeal.

(f) Appeals.

- (1) Limitation. An application for appeal shall be based on a claim that the true intent of the building code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of the building code do not fully apply, or an equally good or better form of construction is proposed.
- (2) Filing. Appeals to the board shall be made by filing a written appeal with the building official within 30 days of the date of the order, decision, or determination being appealed, containing the following information:
 - a. A heading in the words: "Appeal to the Building Code Board of Appeals."
 - b. A caption reading: "Appeal of _____," giving the names of all appellants participating in the appeal.
 - c. A brief statement setting forth the legal interest of each of the appellants in the property involved in the appeal.

- d. A brief statement in ordinary and concise language of the specific order, decision or determination appealed from, together with any material facts claimed to support the contentions of the appellant.
 - e. A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested order, decision or determination should be reversed, modified or otherwise set aside.
 - f. The signatures of all parties named as appellants and their official mailing addresses.
- (3) Fee. At the same time as an appeal is filed, the appellant shall pay a fee for the processing of the appeal in the amount established by the city council by resolution from time to time.
- (4) Scheduling of hearing. Upon receipt of an appeal and the payment of the required fee, the building official shall schedule a hearing as follows:
- a. Appeal hearings for one- and two-family buildings requested up to the time of permit issuance shall occur within 15 working days of the filing of the appeal.
 - b. Appeal hearings for one- and two-family buildings requested from the time of permit issuance through the issuance of the certificate of occupancy shall occur within 10 working days of the filing of the appeal.
 - c. Appeal hearings for other buildings or structures requested up to the time of permit issuance shall occur within 30 working days of the filing of the appeal.
 - d. Appeal hearings for other buildings or structures requested from the time of permit issuance through the issuance of the certificate of occupancy shall occur within 20 working days of the filing of the appeal.
- (5) Notice of hearing. Upon the filing of an appeal and the scheduling of a hearing, the building official shall give notice of the date, time and place of the hearing to the appellant and the board. Written notice of the date, time and place of the hearing shall be given at least 10 days prior to the date of the hearing (5 days prior to the date of the hearing in the circumstances described in section f. (4) b. above) to each appellant by the city clerk, either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof by first class mail, postage prepaid, addressed to the appellant at the address shown on the appeal.
- (6) Record of proceedings. A record of the entire proceedings shall be made by tape recording or audio-video recording.
- (7) Form of decision. The board shall render its decision and findings in writing, and serve its decision and findings as provided in section e. (3) above.

(g) Final interpretive authority. Under state law, the state building official has final interpretive authority for all codes adopted as part of the building code except for the plumbing code when enforced by the commissioner of health and the electrical code when enforced by the state board of electricity. A request for final interpretation must come from a local or state level building code board of appeals. The procedures for final interpretations by the state building official are as established in Minnesota Statutes Section 16B.63. In addition, if any person is aggrieved by the final decision of the local

board of appeals and the decision is not rectified by the state building official following submission of the decision to the state building official, the person aggrieved may appeal to the commissioner of administration within 180 days of the decision, as provided by Minn. Stat. Sec. 16B.67.

This ordinance shall be effective 30 days following publication.

Passed by the City Council of the City of Northfield this ____ day of _____, 2007.

ATTEST:

City Clerk

Mayor

First Reading: _____

Second Reading: _____

Published: _____

VOTE: ___ LANSING ___ CASHMAN ___ DAVIS ___ DENISON
 ___ NELSON ___ POKORNEY ___ VOHS