ARTICLE I. BOARD OF APPEALS FOR CONSTRUCTION

DIVISION 1. GENERALLY

Sec. 8-1-1. Purposes.

(a) The purpose of this chapter is consolidate all provisions from the 1984 Detroit City Code that concern the City of Detroit Construction Board of Appeals. This article provides:

(1) For the applicability of this article certain codes in this chapter;

(2) For necessary definitions;

(3) For the composition of the Board;

(4) For the promulgation of administrative rules;

(5) For the establishment and approval of a fee;

(6) For the jurisdiction of the Board;

(7) For hearing procedures;

(8) For the granting of variances; and

(9) For appeals to State Construction Code Commission.

(b) Where, owing to special conditions, a literal enforcement of the provisions of Articles II through XIII of this chapter will result in unnecessary hardship or involve practical difficulties, the Board of Appeals shall have the authority, upon appeal in specific cases, to authorize such variation, or to modify the requirements of those articles, so that the results will not be contrary to the public interest and safety and that substantial justice is done.

Sec. 8-1-2. Applicability.

(a) In accordance with Section 14(1) of the Stille-DeRossett-Hale Single State Construction Code Act, being MCL 125.1514(1), this article applies to the following articles in this chapter:

(1) Article II, Building Code;

(2) Article III, Electrical Code;

(3) Article IV, Mechanical Code;

(4) Article V, Plumbing Code;

(5) Article VI, Rehabilitation Code for Existing Buildings;

(6) Article VII, Residential Code; and

(7) Article VIII, Energy Code.

(b) In accordance with Section 14(2) of the Stille-DeRossett-Hale Single State Construction Code Act, being MCL 125.1514(2), this article applies to the following articles in this chapter:

(1) Article IX, Elevator Code;

(2) Article X, Manlifts Code;

(3) Article XI, Material Hoists Code;

(4) Article XII, Personnel Hoists Code; and

(5) Article XIII, Powered Platforms Code.

Sec. 8-1-3. Definitions.

For purposes of this chapter, the following terms shall have the meanings respectively ascribed to them by this section:

Board of Appeals means the City of Detroit Construction Board of Appeals that is required to be established by Section 14 of the Stille-DeRossett-Hale Single State Construction Code Act, being MCL 125.1514, and that is housed in the Buildings, Safety Engineering, and Environmental Department.

Building Official means a person who is:

(1) Appointed and employed at the Buildings, Safety Engineering, and Environmental Department;

(2) Charged, as required in Section 202, Definitions, and Chapter 35, Referenced Standards, MI (Michigan Department of Licensing and Regulatory Affairs), of the 2015 Michigan Building Code, with the administration and enforcement of the Michigan Building Code, the Michigan Electrical Code, the Michigan Mechanical Code, the Michigan Plumbing Code, the Michigan Rehabilitation Code for Existing Buildings, the Michigan Residential Code, and the Michigan Energy Code;

(3) Charged with the administration and enforcement of the Detroit Elevator Code, Detroit Manlifts Code, Detroit Material Hoists Code, Detroit Personnel Hoists Code, and Detroit Powered Platforms Code; and

(4) Registered in accordance with the Michigan Building Officials and Inspectors Registration Act, being MCL 338.2301 through 338.2313.

State Construction Code Commission means the Body that is created under Section 3a of the Stille-DeRossett-Hale Single State Construction Code Act, being MCL 125.1503a whose responsibilities include hearing appeals from the City of Detroit Construction Board of Appeals under Section 16 of the Stille-DeRossett-Hale Single State Construction Code Act, being MCL 125.1516.

Sec. 8-1-4. Construction Board of Appeals established; composition thereof; terms; qualifications; filling of vacancies; selection of Chair and Vice-Chair.

(a) In accordance with Section 14(1) and (2) of the Stille-DeRossett-Hale Single State Construction Code Act, being MCL 125.1514(1) and (2), a Construction Board of Appeals is established, which is comprised of seven members who are appointed by the Mayor, to hear appeals:

(1) For variances from substantive requirements of the Michigan Building Code, the Michigan Electrical Code, the Michigan Mechanical Code, the Michigan Plumbing Code, the Michigan Rehabilitation Code for Existing Buildings, the Michigan Residential Code, and the Michigan Energy Code as provided for in Sections 8-1-11 through 8-1-14 of this Code; and

(2) For variances from substantive requirements of the Detroit Elevator Code, Detroit Manlifts Code, Detroit Material Hoists Code, Detroit Personnel Hoists Code or Detroit Powered Platforms Code as provided for in Sections 8-1-11 through 8-1-13 of this Code, and Section 8-1-15 of this Code.

(b) Board Members shall be residents of the City of Detroit or non-residents of the City of Detroit who maintain their principal business offices within the City of Detroit.

(c) The appointees shall consist of:

(1) A structural engineer;

(2) An electrical engineer;

(3) A mechanical engineer;

(4) A fire-protection engineer;

(5) An architect;

(6) A plumbing contractor who is registered with the City; and

(7) An unlimited-elevator contractor who is licensed by the City.

(d) In accordance with Section 14(1) of the Stille-DeRossett-Hale Single State Construction Code Act, being MCL 125.1514(1), a member of the Construction Board of Appeals shall be qualified by experience or training to perform the duties of members of the Board of Appeals.

(e) As permitted by Section 14(1) of the Stille-DeRossett-Hale Single State Construction Code Act, being MCL 125.1514(1), the City of Detroit has determined that, commencing February 15, 2018, the Board members:

(1) Shall serve staggered three-year terms which, in accordance with Section 2-110 of the Charter, begin on the 15th day of February and end on the final February 14th of the term, provided, that the initial term of three of the members shall be three years, the initial term of three of the members shall be two years, and initial term of one of the members shall be one year; and

(2) Shall be eligible for reappointment but may not serve more than three consecutive terms.

(f) Any vacancy occurring on the Construction Board of Appeals shall be filled by the Mayor for the remainder of any unexpired term. A member who is appointed to fill a vacancy on the Board shall serve only for the remainder of the term, provided, that such member may be reappointed.

(g) When making the appointments, the Mayor shall designate a Chair and a Vice-Chair.

(Code 1964, §§ 12-11-31.0, 12-11-32.0; Code 1984, § 12-11-32.0; Ord. No. 290-H, § 1(12-11-31.0, 12-11-32.0), eff. 11-15-1978; Ord. No. 23-85, § 1(12-11-32.0), eff. 6-14-1985; Ord. No. 15-88, § 1(12-11-32.0), eff. 9-21-1988)

Sec. 8-1-5. Construction Board of Appeals promulgation of administrative rules; meetings, quorum; business to be held and conducted at public meetings; notice; public information.

(a) In accordance with Section 14(2) of the Stille-DeRossett-Hale Single State Construction Code Act, being MCL 125.1514(2), and Section 2-111 of the Charter, the Construction Board of Appeals shall promulgate procedural rules for the administration of appeals of decisions, determinations, and orders by the Building Official, as defined in Section 8-1-3 of this Code, or by his or her designee, and by the Board.

(b) The procedural rules shall provide, among other things, that:

(1) The Vice-Chair shall act in the absence of the Chair;

(2) Four members shall be necessary for a quorum and, except where a member has a conflict, all members shall vote on each voting matter; and

(3) A matter shall not be determined except by a majority of all members present and each motion shall be adopted with at least three affirmative votes.

(c) The Director of the Buildings, Safety Engineering, and Environmental Department shall designate a member of the Department to act as secretary of the Board. In conjunction with the Chair of the Board, the Director shall request that the secretary of the Board call a meeting of the Board and notify the members thereof in writing in accordance with Subsection (d) of this section. The secretary shall keep a record of all decisions of the Board and, upon request, shall furnish a copy thereof to all interested parties.

(d) In accordance with Section 14(3) of the Stille-DeRossett-Hale Single State Construction Code Act, being MCL 125.1514(3), the business which the Construction Board of Appeals may perform shall be conducted at a public meeting that is held in compliance with the Michigan Open Meetings Act, being MCL 15.261 *et seq.* Public notice of the time, date, and place of the meeting shall be given in the manner required by the Michigan Open Meetings Act, being MCL 15.261 *et seq.*

(e) In accordance with Section 14(4) of the Stille-DeRossett-Hale Single State Construction Code Act, being MCL 125.1514(4), a record of decisions made by the Construction Board of Appeals, properly indexed, and any other writing prepared, owned, used, in the possession of, or retained by the board of appeals in the performance of an official function shall be made available to the public in compliance with the Michigan Freedom of Information Act, being MCL 15.231 *et seq.*

(Code 1964, §§ 12-11-31.0, 12-11-32.0; Code 1984, § 12-11-32.0; Ord. No. 290-H, § 1(12-11-31.0, 12-11-32.0), eff. 11-15-1978; Ord. No. 23-85, § 1(12-11-32.0), eff. 6-14-1985; Ord. No. 15-88, § 1(12-11-32.0), eff. 9-21-1988)

Sec. 8-1-6. Establishment and approval of fee.

(a) In accordance with Section 9-507 of the Charter, the Director of the Buildings, Safety Engineering, and Environmental Department is authorized to establish a necessary fee with the approval of the City Council, through adoption of a resolution, for the cost of an appeal.

(b) After adoption of a resolution by the City Council and approval of the resolution by the Mayor, the fee shall be:

(1) Published in a daily newspaper of general circulation and in the Journal of the City Council;

(2) Made available at the Buildings, Safety Engineering, and Environmental Department and at the Office of the City Clerk; and

(3) Reviewed by the Director of the Buildings, Safety Engineering, and Environmental Department at least once every two years.

Secs. 8-1-7—8-1-10. Reserved.

DIVISION 2. HEARINGS

Sec. 8-1-11. Jurisdiction of Board of Appeals.

(a) In accordance with Section 14(1) of the Stille-DeRossett-Hale Single State Construction Code Act, being MCL 125.1514(1), the Construction Board of Appeals has jurisdiction over appeals from refusal by the Building Official, as defined in Section 8-1-3 of this Code, or his or her designee, to grant an application for a building permit, or makes any other decision pursuant or related to the Michigan Building Code, the Michigan

Electrical Code, the Michigan Mechanical Code, the Michigan Plumbing Code, the Michigan Rehabilitation Code for Existing Buildings, the Michigan Residential Code, or the Michigan Energy Code.

(b) In accordance with Section 14(2) of the Stille-DeRossett-Hale Single State Construction Code Act, being MCL 125.1514(2), the Construction Board of Appeals has jurisdiction over appeals from refusal by the Building Official, as defined in Section 8-1-3 of this Code, or his or her designee, to grant an application for a building permit, or makes any other decision pursuant or related to the Detroit Elevator Code, Detroit Manlifts Code, Detroit Material Hoists Code, Detroit Personnel Hoists Code or Detroit Powered Platforms Code.

(Code 1964, §§ 1.1, 12-11-32.0, 101.3, 101.4; Code 1984, §§ 114.1, 12-11-32.0; Ord. No. 706-G, § 1(1.1), eff. 7-4-1972; Ord. No. 290-H, § 1(12-11-32.0), eff. 11-15-1978; Ord. No. 390-H, § 1(101.4), eff. 10-19-1980; Ord. No. 604-H, § 1(101.3), eff. 1-4-1985; Ord. No. 04-85, § 1(114.1), eff. 2-8-1985; Ord. No. 23-85, § 1(12-11-32.0), eff. 6-14-1985; Ord. No. 15-88, § 1(12-11-32.0), eff. 9-21-1988)

Sec. 8-1-12. Filing of appeal; payment of fee; Building Official to forward record.

(a) Any interested person, or the person's authorized agent, who is aggrieved by any decision, determination, or order of the Building Official, as defined in Section 8-1-3 of this Code, or his or her designee, concerning the refusal to grant an application for a building permit or the making any other decision related to the Michigan Building Code, the Michigan Electrical Code, the Michigan Mechanical Code, the Michigan Plumbing Code, the Michigan Rehabilitation Code for Existing Buildings, the Michigan Residential Code, the Michigan Energy Code, the Detroit Elevator Code, the Detroit Manlifts Code, the Detroit Material Hoists Code, the Detroit Personnel Hoists Code, or the Detroit Powered Platforms Code, may file a written appeal to the Board of Appeals.

(b) An appeal shall be taken within ten business days of the date of the decision, determination, or order complained of by filing, with the Director of the Department, a Notice of Appeal directed to the Board of Appeals, specifying the location of the device or equipment, the grounds for the appeal, and the relief requested, and shall be accompanied by a non-refundable filing fee that is established pursuant to Section 8-1-6 of this Code.

(c) The Building Official, as defined in Section 8-1-3 of this Code, or his or her designee, shall forward to the designated administrative secretary for the Board of Appeals, within three business days of receipt of an appeal, all documents constituting the record upon which the decision, determination, or order appealed from was based.

(Code 1964, §§ 1.2, 1.3, 1.4, 1.5, 12-11-32.0, 101.3, 101.4, 101.5; Code 1984, §§ 12-11-32.0, 114.1; Ord. No. 705-G, § 1(1.4, 1.5), eff. 7-4-1972; Ord. No. 706-G, § 1(1.3, 1.4), eff. 7-4-1972; Ord. No. 290-H, § 1(12-11-32.0), eff. 11-15-1978; Ord. No. 307-H, § 1(1.2, 1.4, 1.5), eff. 3-2-1979; Ord. No. 308-H, § 1(1.2, 1.4), eff. 3-2-1979; Ord. No. 309-H, § 1(1.2, 1.3, 1.4), eff. 3-2-1979; Ord. No. 390-H, § 1(101.4, 101.5), eff. 10-19-1980; Ord. No. 604-H, § 1(101.3), eff. 1-4-1985; Ord. No. 04-85, § 1(114.1), eff. 2-8-1985; Ord. No. 23-85, § 1(12-11-32.0), eff. 6-14-1985; Ord. No. 15-88, § 1(12-11-32.0), eff. 9-21-1988)

Sec. 8-1-13. Notice of hearing; stay of decision, determination, or order.

The Board of Appeals shall give written notice of the location, date, and time of the hearing to all interested parties. Where it is clearly evident that reasonable safety is assured, such appeal shall act as a stay of any decision, determination, or order of the Building Official, as defined in Section 8-1-3 of this Code, or his or her designee, until approved, modified, or set aside by the Board of Appeals.

(Code 1964, §§ 1.4, 1.5, 101.4, 101.5; Code 1984, § 101.5; Ord. No. 705-G, § 1(1.5), eff. 7-4-1972; Ord. No. 706-G, § 1(1.4), eff. 7-4-1972; Ord. No. 307-H, § 1(1.5), eff. 3-2-1979; Ord. No. 308-H, § 1(1.5), eff. 3-2-1979; Ord. No. 309-H,

§ 1(1.4), eff. 3-2-1979; Ord. No. 390-H, § 1(101.5), eff. 10-19-1980; Ord. No. 604-H, § 1(101.4), eff. 1-4-1985; Ord. No. 37-88, § 1(101.5), eff. 2-18-1989)

Sec. 8-1-14. Appeal for specific variance from state code; requirements; breach of condition; permissible variance; time limit for rendering decision; notification of decision; appeal to State Construction Code Commission.

(a) In accordance with Section 15(1) of the Stille-DeRossett-Hale Single State Construction Code Act, being MCL 125.1515(1), after a public hearing, the Board of Appeals may grant a specific variance to a substantive requirement of a the Michigan Building Code, the Michigan Electrical Code, the Michigan Mechanical Code, the Michigan Plumbing Code, the Michigan Rehabilitation Code for Existing Buildings, the Michigan Residential Code, or the Michigan Energy Code, where the literal application of the substantive requirement would result in an exceptional, practical difficulty to the applicant, and where both of the following requirements are satisfied:

(1) The performance of the particular item or part of the building or structure with respect to which the variance is granted shall be adequate for its intended use and shall not substantially deviate from performance required by the code of that particular item, or part, for the health, safety and welfare of the People; and

(2) The specific condition justifying the variance shall be neither so general nor recurrent in nature as to make an amendment of the code with respect to the condition reasonably practical or desirable.

(b) In accordance with Section 15(2) of the Stille-DeRossett-Hale Single State Construction Code Act, being MCL 125.1515(2):

(1) In no case shall more than minimum variance from the code be granted than is necessary to alleviate the exceptional, practical difficulty;

(2) The Board of Appeals may attach any written condition in connection with the granting of a variance that in its judgment is necessary to protect the health, safety and welfare of the People; and

(3) The breach of a condition shall automatically invalidate the variance and any permit, license, and certificate granted on the basis of the variance.

(c) In accordance with Section 15(1) of the Stille-DeRossett-Hale Single State Construction Code Act, being MCL 125.1515(1), the Board of Appeals shall hear the appeal and render and file its decision with a statement of reasons for the decision with the Buildings, Safety Engineering, and Environmental Department not more than 30 days after submission of the appeal. Failure by the Board of Appeals to hear an appeal and file a decision within this time limit is a denial of the appeal for purposes of authorizing the institution of an appeal to the State Construction Code Commission. A copy of the decision and statement of the reasons for the decision shall be delivered or mailed, before filing, to the party taking the appeal.

(d) An interested person, or the interested person's authorized agent, may appeal a decision of a Board of Appeals to the State Construction Code Commission as provided for in Section 16 of the Stille-DeRossett-Hale Single State Construction Code Act, being MCL 125.1516:

(1) Within ten business days after the Board of Appeals files its decision with the Buildings, Safety Engineering, and Environmental Department; or

(2) Where the Board of Appeals fails to act within the time prescribed in Subsection (c) of this section at any time before filing of the decision.

(Code 1964, §§ 12-11-32.0, 101.3, 101.4; Code 1984, §§ 12-11-32.0, 114.1; Ord. No. 290-H, § 1(12-11-32.0), eff. 11-15-1978; Ord. No. 390-H, § 1(101.4), eff. 10-19-1980; Ord. No. 604-H, § 1(101.3), eff. 1-4-1985; Ord. No. 04-85, §

1(114.1), eff. 2-8-1985; Ord. No. 23-85, § 1(12-11-32.0), eff. 6-14-1985; Ord. No. 15-88, § 1(12-11-32.0), eff. 9-21-1988)

Sec. 8-1-15. Appeal for variance from City Code; time limit for rendering decision; notification of decision; Board's decision is final.

(a) After a public hearing, the Board of Appeals may grant a specific variance to a substantive requirement of the Detroit Elevator Code, Detroit Manlifts Code, Detroit Material Hoists Code, Detroit Personnel Hoists Code, or Detroit Powered Platforms Code, where the literal application of the substantive requirement would result in an exceptional, practical difficulty to the applicant.

(b) Upon hearing an appeal filed pursuant to this section, the Board of Appeals may affirm, modify, or set aside any a decision, determination, or order of the Building Official, as defined in Section 8-1-3 of this Code, or his or her designee. The Board of Appeals shall render and file its decision with a statement of reasons for the decision with the Buildings, Safety Engineering, and Environmental Department not more than 30 days after submission of the appeal. A copy of the decision and statement of the reasons for the decision shall be delivered or mailed, before filing, to the party who filed the appeal.

(c) A decision of the Board of Appeals that is rendered under this section is final and neither the City nor the applicant may appeal the decision.

(Code 1964, §§ 1.2, 1.4, 1.5; Ord. No. 307-H, § 1(1.2, 1.5), eff. 3-2-1979; Ord. No. 308-H, § 1(1.2, 1.5), eff. 3-2-1979; Ord. No. 309-H, § 1(1.2, 1.4), eff. 3-2-1979)

Secs. 8-1-16—8-1-30. Reserved.