

## COUNCIL BILL NO. 1742

INTRODUCED BY RANDY E. SCHMIDT

## ORDINANCE NO. 1651

AN ORDINANCE

AN ORDINANCE OF THE CITY OF DUBOIS AMENDING CHAPTER 1 OF THE CODE OF ORDINANCES OF THE CITY OF DUBOIS BY THE ADDITION OF PART 11 THEREOF TO CREATE A PROPERTY MAINTENANCE BOARD OF APPEALS CONSISTING OF THREE MEMBERS FOR THE PURPOSE OF HEARING APPEALS OF ANY PERSON DIRECTLY AFFECTED BY A DECISION OF THE CODE ENFORCEMENT OFFICER OR A NOTICE OR ORDER ISSUED UNDER ANY OF THE BOCA CODES ADOPTED BY THE CITY OF DUBOIS IN REGARD TO THE MAINTENANCE OF PROPERTY.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Council of the City of DuBois, in Council assembled, and it is hereby enacted and ordained by authority of the same, as follows:

**SECTION 1. Creation of Board.** There shall be created, upon the final enactment of this Ordinance, a Property Maintenance Board of Appeals, consisting of three (3) members who shall be appointed by the City Council of the City of DuBois, to serve for such terms and with such duties, responsibilities and limitations as shall be hereinafter set forth.

**SECTION 2. Members and Terms of Office.** The Property Maintenance Board of Appeals shall consist of three (3) members. The City Council shall appoint the said three (3) members, one (1) for a term of one year; one (1) for a term of two years and one (1) for a term of three years, who shall serve until their successors are appointed, and thereafter, each person appointed to the Property Maintenance Board of Appeals shall serve for a period of three years, or until his or her successors shall be appointed. Each member of the Board shall be qualified by experience and training to pass on matters pertaining to property maintenance and may not be employees of the City of DuBois. The Code Enforcement Officer shall be an ex-officio member but shall have no vote on any matter before the Board.

There shall also be appointed two (2) alternate members who shall be called by the Board Chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for Board membership.

**SECTION 3. Authority of Board.** The Property Maintenance Board of Appeals shall hear the appeal of any person directly affected by a decision of the Code Enforcement Officer or affected by any notice or order issued under the BOCA Codes adopted by the City of DuBois provided that a written application for appeal shall be filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of the BOCA Code or the rules legally adopted thereunder have been incorrectly interpreted, the provision of the BOCA Code do not fully apply, or the requirements of the BOCA Code are adequately satisfied by other means, or that the strict application of any requirement of the BOCA Code would cause an undue hardship.

**SECTION 4. Chairman.** The Board shall annually select one of its members to serve as Chairman.

**SECTION 5. Disqualification of Member.** A member shall not hear an appeal in which that member has a personal, professional or financial interest.

**SECTION 6. Secretary.** The City Manager shall designate a qualified person to serve as Secretary to the Property Maintenance Board of Appeals. The Secretary shall file a detailed record of all proceedings in the Office of the City Manager.

**SECTION 7. Notice of Hearing.** The Property Maintenance Board of Appeals shall meet upon notice from the Chairman, within 20 days of the filing of an appeal, or at stated periodic meetings.

**SECTION 8. Open Hearing.** All hearings before the Property Maintenance Board of Appeals shall be open to the public. The appellant, the appellant's representative, the Code Enforcement Officer and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than two-thirds of the Board membership.

**SECTION 9. Procedure for Hearing.** The Property Maintenance Board of Appeals shall adopt and make available to the public through the Secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

**SECTION 10. Postponed Hearing.** When the full Board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

**SECTION 11. Board Decision.** The Property Maintenance Board of Appeals shall modify or reverse the decision of the Code Enforcement Officer only by a concurring vote of a majority of the total number of appointed Board members. The decision of the Board shall be recorded. Copies shall be furnished to the appellant and to the Code Enforcement Officer. The Code Enforcement Officer shall take immediate action in accordance with the decision of the Board.

**SECTION 12. Court Review.** Any person, whether or not a previous party to the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the Office of the City Manager.

**SECTION 13. Stays of Enforcement.** Appeals of notice and orders (other than Imminent Danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the Appeals Board.

**SECTION 14.** All other ordinances or parts of ordinances in conflict herewith are hereby repealed. All other provisions of Chapter 1 not in conflict herewith are hereby re-ratified and re-affirmed.

ATTEST:

 By   
John H. Suplizio  
Mayor and President of Council

PASSED BY COUNCIL:

May 13, 2002