

PUBLIC WORKS AND UTILITIES COMMITTEE

08-076-0

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE PROVIDING FOR HEARING OF WATER OR GAS SERVICE DISPUTES BY THE CHIEF ADMINISTRATIVE OFFICER AND ELIMINATING THE WATER AND GAS SERVICE HEARING BOARD, AMENDING SECTION 48-15.3 AND ARTICLE XV OF CHAPTER 48 OF THE CODE.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 48-15.3 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 48-15.3. Same--Disputes.

Whenever an applicant advises the department that any part of a billing for water or gas service is in dispute, the department shall investigate the dispute promptly, advise the applicant of the result of its investigation and attempt to resolve the dispute. The department shall not take any action relating to the disputed matter until the investigation is completed, the applicant is informed of the findings of the department, the applicant has been informed of his right to appeal any adverse finding to the ~~water and gas service hearing board~~ chief administrative officer, and the applicant has either waived ~~his or her~~ applicant's right to appeal or failed to appeal within the required time period, or the appeal has been resolved in favor of the department.

This Section shall not be deemed to prevent the department from taking immediate action which, in the judgment of the department, is necessary to avoid potential physical injury to persons or damage to property.

Section 2. That title to Article XV of Chapter 48 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Article XV. Water and Gas Service ~~Hearing Board~~ Appeals.

Section 3. That Section 48-237 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 48-237. ~~Same Appeals~~--Powers and duties.

The chief administrative officer ~~water and gas service hearing board~~ shall hear and decide appeals by water and gas applicants from department determinations concerning disputes over charges for water or gas service, department decisions to terminate service to an applicant, department determinations on the ability of an applicant to pay service charges immediately made pursuant to Section 48-208(b)(3) of this Code, and the department's denial of a prospective applicant's application for service; provided that ~~no applicant is entitled to obtain service pending the hearing and decision by the board~~ any such appeal shall be in writing, shall set forth any and all grounds for such appeal and shall be filed with the department director no later than ten days after the department action from which the appeal is taken. ~~The board has no power to cancel a debt to the department.~~ All decisions of the ~~board~~ chief administrative officer shall be ~~binding on the department unless contrary to law, and decisions of the board relating to the ability of the applicant to pay service charges shall be binding upon the applicant~~ final.

Section 4. That Chapter 48 of the Duluth City Code, 1959, as amended, is hereby amended by repealing Sections 48-236, 48-238 and 48-239 in their entirety.

Section 5. That this ordinance shall take effect 30 days after its passage and publication.

Approved:

Approved for presentation to council:

\_\_\_\_\_  
Department Director

\_\_\_\_\_  
Chief Administrative Officer

Approved as to form:

Approved:

\_\_\_\_\_  
Attorney

\_\_\_\_\_  
Auditor

PW&U/ATTY REA:blj 9/11/2008

STATEMENT OF PURPOSE: This ordinance eliminates the water and gas service hearing board and substitutes a procedure which will allow appeals to be made to the city's chief administrative officer. There have not been any appeals to the board in a long time; it has been inactive and presently has no membership.

Eliminating the board is part of the city's drive to eliminate boards and commissions that are no longer needed and thereby reduce the administrative burden on the city. By allowing any appeals to be heard by the chief administrative officer, any customer complaints that would have been heard by the board will still be entitled to a hearing by someone outside the department.