

INTRODUCED: February 28, 2022

AN ORDINANCE No. 2022-053

To amend City Code §§ 5-34, concerning appointments and divisions of the Board of Building Code Appeals, 5-35, concerning membership of the Board, 5-36, concerning meetings, officers, minutes, and records of the Board, and 5-37, concerning terms of office for members of the Board, to consolidate the divisions of Board into one board.

Patron – Mayor Stoney

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: MAR 28 2022 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That sections 5-34, 5-35, 5-36, and 5-37 of the Code of the City of Richmond (2020) be and hereby are **amended** as follows:

Sec. 5-34. Appointments[; ~~divisions~~].

[(a)] The Board of Building Code Appeals shall be appointed and shall function in conformity with the Virginia Uniform Statewide Building Code and the administrative sections of this chapter and the administrative structure of the City [~~and shall consist of three divisions~~ organized as follows:

AYES: 7 NOES: 0 ABSTAIN: _____

ADOPTED: MAR 28 2022 REJECTED: _____ STRICKEN: _____

~~(1) Board of Building Code Appeals, General Division.~~

~~(2) Board of Building Code Appeals, Electrical Division.~~

~~(3) Board of Building Code Appeals, Plumbing and Mechanical Division.~~

~~(b) The divisions of the Board shall also serve as the agent for qualification of candidates for certification as tradesmen in their respective fields of expertise].~~

Sec. 5-35. Membership.

(a) ~~[Each division of the]~~ The Board shall consist of five members to be appointed by the City Council on the basis of their technical ability to render fair and competent decisions regarding application of the Virginia Uniform Statewide Building Code, who shall, to the extent possible, represent different occupational or professional fields. Employees or officials of the City shall not serve as Board members. ~~[The members of each of the divisions of the Board shall be comprised of individuals technically qualified in the construction discipline for which appeals will be heard.]~~

(b) ~~[Three alternate members shall be appointed to serve in the absence of any regular member of any division of the Board.]~~ Each member appointed by the City Council shall be a resident of the ~~[City]~~ Commonwealth of Virginia or shall be an officer or employee of a firm which has a place of business within the ~~[City]~~ Commonwealth of Virginia.

(c) When feasible, the ~~[General Division]~~ Board shall consist of the following:

(1) One licensed general contractor engaged ~~[primarily]~~ in the building of residential or commercial buildings and structures;

(2) One licensed architect or one licensed engineer~~[-, who is currently]~~ engaged in the ~~[active]~~ design of buildings and structures; ~~[and]~~

(3) ~~[Three citizens with knowledge of the building construction trade.]~~ One licensed electrical contractor or one professional engineer engaged in the design of electrical systems for buildings;

(4) One licensed plumbing or mechanical contractor or one professional engineer engaged in the design of plumbing or mechanical systems for buildings; and

(5) One individual experienced in residential or commercial property management.

~~[(d) When feasible, the Electrical Division shall consist of the following:~~

~~(1) Two representatives of electrical contractors;~~

~~(2) One licensed professional engineer in private practice actively engaged in the design of electrical systems for buildings;~~

~~(3) One representative of a public electric power utility; and~~

~~(4) One citizen with knowledge of electrical systems.~~

~~(e) When feasible, the Plumbing and Mechanical Division shall consist of the following:~~

~~(1) One certified master plumber;~~

~~(2) One representative of a mechanical contractor;~~

~~(3) One licensed professional engineer in private practice engaged in the design of plumbing systems for buildings;~~

~~(4) One licensed professional engineer actively engaged in the design of mechanical systems for buildings; and~~

~~(5) One citizen with knowledge of plumbing systems or mechanical systems or both.]~~

Sec. 5-36. Meetings; officers; minutes and records.

(a) The meetings of the [~~various divisions of the~~] Board shall be held at the call of the Chairperson and at such other times as the Board may determine. [~~Each division of the~~] The Board shall select from its members a Chairperson and a Vice-Chairperson. The Chairperson shall preside at the meetings of the Board; in the absence of the Chairperson the Vice-Chairperson shall preside.

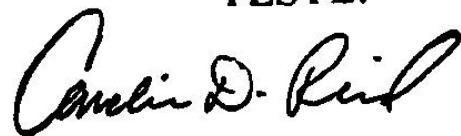
(b) Three members [~~of any division~~] shall constitute a quorum thereof. [~~Each division~~] The Board shall select a Secretary, who shall keep minutes of the Board's proceedings showing the vote of each member; if a member is absent or abstains from voting, such fact shall be recorded. The Board's action on all appeals shall be by resolution, and certified copies shall be furnished to the appellant and to the Building Official or Code Official whose decision is the subject of the appeal. All appeal hearings shall be open to the public and shall be a matter of public record.

Sec. 5-37. Terms of office.

Appointments to the Board shall be for terms of three years. Vacancies shall be filled by the City Council for the unexpired portion of the term of the former member of the Board. Each new member shall be appointed to serve for three years or until a successor has been appointed. Members may be reappointed to serve an unlimited number of successive terms. [~~Terms for alternate members shall be as established by the City Council at the time of their appointment.~~]

§ 2. This ordinance shall be in force and effect upon adoption.

**A TRUE COPY:
TESTE:**



City Clerk



O&R REQUEST

DATE: 26 January 2022

EDITION 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor (Patron)

THROUGH: J. E. Lincoln Saunders, Chief Administrative Officer

THROUGH: Sharon L. Ebert, Deputy Chief Administrative Officer for Planning, Community, and Economic Development

FROM: Kevin J. Vonck, Director, Department of Planning and Development Review

RE: To amend and reordain City Code §Chapter 5: sections 5-34., 5-35., 5-36, and 5-37. of the Code of the City of Richmond (2021) regarding the Board of Building Code Appeals.

ORD.: ORD.2022-###

PURPOSE: To amend and reordain City Code §Chapter 5: sections 5-34., 5-35., 5-36, and 5-37. of the Code of the City of Richmond (2021) regarding the Board of Building Code Appeals.

REASON: The Board of Building Code Appeals (BBCA) currently contains three (3) divisions: General, Electrical, and Plumbing and Mechanical. Given the infrequent number of cases, and the difficulty in finding members (who must also be City residents) to serve on the board, we recommend condensing the BBCA into a single board, subject to, and in accordance with applicable state codes.

RECOMMENDATION: Approve the Ordinance as drafted.

BACKGROUND: The BBCA is a local-level, quasi-judicial board providing a first-tier due process right of adjudication of decisions of local government building officials regarding their enforcement of the Virginia Uniform Statewide Building Code (USBC). The BBCA is also charged with hearing appeals under the Virginia Amusement Device Regulations, which may be treated as appeals under the USBC.

The BBCA is established by §36-105 Code of Virginia, which states: “There shall be established within each local building department a local Board of Building Code appeals whose composition, duties and responsibilities shall be prescribed in the Building Code. No appeal to the State Building Code Technical Review Board shall lie prior to a final determination by the local board of Building Code appeals.”

§36.105 Code of Virginia, §119.3 Virginia Administrative Code, and §107.3 Virginia Maintenance Code set the qualifications for BBCA membership, which include the “ability to render fair and competent decisions regarding application of the USBC.” They do not stipulate the size of the board, but do require that it contain at least one (1) experienced builder, at least one (1) registered design professional (RDP; e.g. licensed architect or engineer) and one experienced property manager among its members.

FISCAL IMPACT/COST: Employees from the Department of Planning and Development Review and the City Attorney provide administrative support to the BBCA as part of their regular job duties. Applicants pay a \$184 fee to commence the process.

FISCAL IMPLICATIONS: No changes proposed to fee structure.

BUDGET AMENDMENT NECESSARY: No.

REVENUE TO CITY: Applicants pay a \$184 fee to commence the process. This ordinance will not change the number of applications that are submitted.

DESIRED EFFECTIVE DATE: Friday, 1 April 2022

REQUESTED INTRODUCTION DATE: Monday, 28 February 2022

CITY COUNCIL PUBLIC HEARING DATE: Monday, 28 March 2022

REQUESTED AGENDA: Consent.

RECOMMENDED COUNCIL COMMITTEE: Land Use, Housing, and Transportation

CONSIDERATION BY OTHER GOVERNMENT ENTITIES: The Virginia Department of Housing and Community Development, Division of Building and Fire Regulation is responsible for administering provisions of state-level codes regarding the USBC.

AFFECTED AGENCIES: Planning and Development Review; City Attorney

RELATIONSHIP TO EXISTING ORD. OR RES.: City Code §Chapter 5: sections 5-34., 5-35., 5-36, and 5-37.

REQUIRED CHANGES TO WORK PROGRAM(S): No.

ATTACHMENTS: 1) Draft ordinance.

STAFF:

Kevin J. Vonck, Director, Department of Planning and Development Review
(p) 804.646.3741 (e) kevin.vonck@rva.gov

David L. Alley, III, Commissioner of Buildings, Department of Planning and Development Review
(p) 804.646.3439 (e) david.alley@rva.gov