

## ORDINANCE NO. 5121

### AN ORDINANCE MAKING THE DECISIONS OF THE DEVELOPMENT APPEALS AND REVIEW BOARD FINAL WHEN HEARING APPEALS FROM THE INTERNATIONAL RESIDENTIAL CODE BY AMENDING SECTION 15.12.150 OF THE RAPID CITY MUNICIPAL CODE

WHEREAS, the Rapid City Development and Appeals Review Board (DARB) has been granted the authority to hear appeals from the orders, decisions and determinations of the City's Building Official regarding the enforcement and interpretation of the International Residential Code (IRC) as adopted by the City; and

WHEREAS, the authority of the DARB Board when hearing appeals from the Building Official's enforcement and interpretation of the IRC is currently limited to making recommendations to the City Council; and

WHEREAS, as a result of the DARB Board being a recommending body only, all appeals from the IRC must be heard by both the DARB Board and the City Council; and

WHEREAS, the requirement that all appeals must be heard by both the DARB Board and the City Council lengthens the appeal process and results in appellants and staff having to make multiple presentations on the same issues; and

WHEREAS, in order to speed up the appeals process and reduce the amount of duplicate presentations, the Common Council of the City of Rapid City deems it to be in the City's best interests to make decisions of the DARB Board on appeals from the IRC final.

NOW THEREFORE, BE IT ORDAINED, that Section 15.12.150 of the Rapid City Municipal Code be amended to read as follows:

#### **15.12.150 Chapter 1, Section R112 Board of Appeals -- Amended.**

IRC Chapter 1, Section R112 Board of Appeals is hereby amended to read as follows:

#### SECTION R112 BOARD OF APPEALS

~~**R112.1 General.** See Chapter 2.88, Development Appeals and Review Board, of the Rapid City Municipal Code.~~

A. In order to hear and decide appeals of orders, decisions or determinations made by the City's Building Official or their designee relative to the application and interpretation of this code, there is hereby created a board of appeals to be known as the Rapid City International Residential Code Board of Appeals (IRC Board of Appeals). The decision of the IRC Board of Appeals shall be final.

B. The membership of the IRC Board of Appeals described in subsection A shall be identical to the membership of the City's Development Appeals and Review Board (DARB). The officers of the DARB Board shall hold the same positions on the IRC Board of Appeals as they hold on the DARB Board. When the members of the DARB Board are sitting as the IRC Board of Appeals they shall make clear on the record that they are hearing a matter on their agenda in that capacity and not as the DARB Board. The IRC Board of Appeals will have the authority to adopt by-laws governing the conduct of meetings. In the absence of by-laws to the contrary the meetings of the IRC Board of Appeals shall be governed by the latest edition of Roberts Rules of Order.

C. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted there under have been incorrectly interpreted, the provisions of this code do not fully apply, or that a request to use an alternate material, design or method of construction under Section R104.11 has been requested and denied. If the appeal is based on a claim that an alternate material, design or method of construction was improperly denied, the appellant must submit what alternate material, design or method of construction they are proposing. The appellant also has the burden to demonstrate to the Board that the alternative method or material that they are proposing is an equally good or better form of construction. The Board shall have no authority to waive the requirements of the International Residential Code as adopted by the City.

D. All appeals must be submitted in writing to the Building Official or their designee within 30 days of the order, decision or determination of the Building Official being appealed from. Once the appeal is received by the Building Official they should contact the members of the IRC Board of Appeals to schedule a meeting at which the appeal will be heard. The hearing on the appeal shall be held no sooner then 7 days after the appeal is received by the City.

E. All hearings before the board shall be open to the public. The appellant, the appellant's representative, the code official, any member of the City's staff or any person whose interests are affected shall be given an opportunity to be heard.

CITY OF RAPID CITY

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Finance Officer  
(SEAL)

First Reading:  
Second Reading:  
Published:  
Effective:

