Code of Virginia
Title 15.2. Counties, Cities and Towns
Subtitle II. Powers of Local Government
Chapter 22. Planning, Subdivision of Land and Zoning
Article 7. Zoning

§ 15.2-2308. Boards of zoning appeals to be created; membership, organization, etc

A. Every locality that has enacted or enacts a zoning ordinance pursuant to this chapter or prior enabling laws shall establish a board of zoning appeals that shall consist of either five or seven residents of the locality, or in a town with a population of 3,500 or less, either three, five, or seven residents of the locality, appointed by the circuit court for the locality. Boards of zoning appeals for a locality within the fifteenth or nineteenth judicial circuit may be appointed by the chief judge or his designated judge or judges in their respective circuit, upon concurrence of such locality. Their terms of office shall be for five years each, except that original appointments shall be made for such terms that the term of one member shall expire each year. The secretary of the board shall notify the court at least 30 days in advance of the expiration of any term of office and shall also notify the court promptly if any vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members may be reappointed to succeed themselves. Members of the board shall hold no other public office in the locality, except that one may be a member of the local planning commission, any member may be appointed to serve as an officer of election as defined in § 24.2-101, and any elected official of an incorporated town may serve on the board of the county in which the member also resides. A member whose term expires shall continue to serve until his successor is appointed and qualifies. The circuit court for the City of Chesapeake and the Circuit Court for the City of Hampton shall appoint at least one but not more than three alternates to the board of zoning appeals. At the request of the local governing body, the circuit court for any other locality may appoint not more than three alternates to the board of zoning appeals. The qualifications, terms and compensation of alternate members shall be the same as those of regular members. A regular member when he knows he will be absent from or will have to abstain from any application at a meeting shall notify the chairman 24 hours prior to the meeting of such fact. The chairman shall select an alternate to serve in the absent or abstaining member's place and the records of the board shall so note. Such alternate member may vote on any application in which a regular member abstains.

B. Localities may, by ordinances enacted in each jurisdiction, create a joint board of zoning appeals that shall consist of two members appointed from among the residents of each participating jurisdiction by the circuit court for each county or city, plus one member from the area at large to be appointed by the circuit court or jointly by such courts if more than one, having jurisdiction in the area. The term of office of each member shall be five years, except that of the two members first appointed from each jurisdiction, the term of one shall be for two years and of the other, four years. Vacancies shall be filled for the unexpired terms. In other respects, joint boards of zoning appeals shall be governed by all other provisions of this article.

C. With the exception of its secretary and the alternates, the board shall elect from its own membership its officers who shall serve annual terms as such and may succeed themselves. The board may elect as its secretary either one of its members or a qualified individual who is not a member of the board, excluding the alternate members. A secretary who is not a member of the

board shall not be entitled to vote on matters before the board. Notwithstanding any other provision of law, general or special, for the conduct of any hearing, a quorum shall be not less than a majority of all the members of the board and the board shall offer an equal amount of time in a hearing on the case to the applicant, appellant or other person aggrieved under § 15.2-2314, and the staff of the local governing body. Except for matters governed by § 15.2-2312, no action of the board shall be valid unless authorized by a majority vote of those present and voting. The board may make, alter and rescind rules and forms for its procedures, consistent with ordinances of the locality and general laws of the Commonwealth. The board shall keep a full public record of its proceedings and shall submit a report of its activities to the governing body or bodies at least once each year.

D. Upon request of the board of zoning appeals, the governing body shall consider appropriation of funds so that the board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services. If a board has needs that surpass the budgeted amount, the governing body shall review the board's request. Members of the board may receive such compensation as may be authorized by the respective governing bodies. Any board member or alternate may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court that appointed him, after a hearing held after at least 15 days' notice.

E. Notwithstanding any contrary provisions of this section, in the Cities of Portsmouth and Virginia Beach, members of the board shall be appointed by the governing body. The governing body shall also appoint at least one but not more than three alternates to the board.

Code 1950, §§ 15-825, 15-850, 15-968.8; 1950, pp. 176, 489; 1952, c. 688; 1962, c. 407, § 15.1-494; 1975, c. 641; 1976, c. 642; 1977, c. 172; 1982, c. 3; 1989, c. 27; 1992, c. 47; 1997, cc. 570, 587; 1998, cc. 346, 520, 528;1999, c. 838;2002, cc. 205, 545;2007, c. 813;2009, c. 734;2010, c. 705; 2015, cc. 406, 407, 597;2019, c. 703;2020, cc. 11, 1006;2021, Sp. Sess. I, c. 355;2022, c. 249.

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.