

ORDINANCE NO. ORD-14-0019

AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF LONG BEACH AMENDING THE LONG
BEACH MUNICIPAL CODE BY AMENDING SECTION
18.10.020; AND BY REPEALING SECTION 18.10.030,
RELATING TO THE BOARD OF EXAMINERS,
APPEALS AND CONDEMNATION AND DISABLED
ACCESS APPEALS BOARD

WHEREAS, in 1981, pursuant to Section 19957.5 of the California Health
and Safety Code, the Disabled Access Appeals Board (DAAB) was established by the
City Council. The DAAB was established to hear written appeals regarding actions taken
by the City's Building Official relating to enforcement of State regulations pertaining to
access and public accommodations by disabled individuals. Historically, the DAAB has
met infrequently; and

WHEREAS, the Board of Examiners, Appeals and Condemnation (BEAC)
was established by the City Council in 1977 to determine the suitability of alternate
materials and types of construction, and to hear appeals of decisions made by the City's
Building Official on matters related to enforcement of State codes and substandard
conditions. The BEAC meets regularly once a month and holds meetings in accordance
with the Brown Act; and

WHEREAS, the existence of two separate boards with functional similarities
is no longer viable. Therefore, it is prudent and appropriate that the DAAB be dissolved
and their responsibilities shifted to the BEAC, and that the BEAC act as the hearing body
for all appeal proceedings. Currently, the BEAC has seven (7) members with no disabled
individuals represented on the Board. The DAAB has five (5) members, including two
disabled individuals. Combining these boards will require the appointment of two (2)

1 disabled individuals to the BEAC in accordance with State law. The consolidation of
2 these two boards will reduce redundancies, improve efficiencies and enhance the delivery
3 of programs and services;

4 NOW, THEREFORE, the City Council of the City of Long Beach ordains as
5 follows:

6 Section 1. Section 18.10.020 of the Long Beach Municipal Code
7 is amended to read as follows:

8 A. General. In order to determine the suitability of alternate
9 materials and types of construction and to provide for reasonable
10 interpretations of the provisions of this title, municipal code or other
11 ordinances of the City or laws and statutes of the State, and in order to
12 provide a forum to review the determinations of the Building Official relative
13 thereto as well as to make determinations relative to correction of
14 substandard conditions in buildings and to abate nuisances, and to hear
15 written appeals regarding action taken by the Building Official in its
16 enforcement of State regulations pertaining to access to public
17 accommodations by physically handicapped persons, there is created a
18 Board of Examiners, Appeals and Condemnation established pursuant to
19 Ordinance No. C-5332 in 1977 and amended pursuant to Ordinance No. C-
20 5709 in 1981.

21 B. Members. The Board of Examiners, Appeals and
22 Condemnation shall consist of seven (7) members at least five (5) of whom
23 are qualified by experience and training to pass judgment upon matters
24 pertaining to building construction; in accordance with State regulations at
25 least two (2) of the seven (7) members shall be physically handicapped
26 persons; they shall be recommended by the City Manager for appointment
27 by the Mayor and confirmation by the City Council. Members shall serve
28 two (2) year terms and shall be eligible for reappointment if their service

1 does not exceed the eight (8) year maximum established by City Council.

2 The Building Official shall serve as Secretary to the Board.

3 C. Duties. The Board of Examiners, Appeals and Condemnation
4 shall conduct hearings on written appeals regarding any action taken by the
5 Building Official in enforcing the provisions of this title, municipal code or
6 other ordinances of the City or laws and statutes of the State. In the appeal,
7 the Board of Examiners, Appeals and Condemnation may approve or
8 disapprove interpretations of these regulations and enforcement actions
9 taken by the Building Official. The Board of Examiners, Appeals and
10 Condemnation shall also conduct hearings on written appeals regarding
11 any action taken by the Building Official in enforcing the provisions of State
12 law pertaining to access to public accommodations by physically
13 handicapped persons, including any exceptions contained in Section 19957
14 of the California Health and Safety Code. In the appeal, the Board may
15 approve or disapprove interpretations of these regulations and enforcement
16 actions taken by the Building Official.

17 D. Procedure. The Board of Examiners, Appeals and
18 Condemnation shall adopt reasonable rules and regulations for conducting
19 its investigations and hearings and where not specifically provided
20 otherwise by such rules, Robert's Rules of Order shall govern. All decisions
21 and findings of the Board of Examiners, Appeals and Condemnation shall
22 be in writing and shall be filed with the Secretary with copies to the
23 interested parties. Four (4) members shall constitute a quorum for
24 transaction of business; and each member, including the member serving
25 as Chairman, shall be entitled to vote on any matter coming before the
26 Board of Examiners, Appeals and Condemnation. For those hearings on
27 written appeals regarding the provisions of State law pertaining to access to
28 public accommodations by physically handicapped persons, at least two (2)

1 members of the Board present and participating in the hearing shall be
2 physically handicapped. All decisions shall be entered upon the minutes of
3 the meetings of the Board, and the Building Official shall be guided in
4 accordance therewith. All decisions of the Board of Examiners, Appeals and
5 Condemnation shall be final and conclusive in the absence of fraud or
6 prejudicial abuse of discretion.

7 E. Filing requirement. Any person aggrieved by any ruling of the
8 Building Official interpreting the provisions of this title, municipal code or
9 other ordinances of the City or laws and statutes of the State or requiring
10 the doing of any remedial work, or with respect to such person's application
11 for approval of a substitute material or type of construction may appeal to
12 the Board of Examiners, Appeals and Condemnation within thirty (30) days
13 from the date of such ruling or order by serving a written notice upon the
14 Secretary of the Board. A written notice shall be submitted together with a
15 fee as set forth in Section 18.06.100. Such written notice shall state that the
16 applicant is dissatisfied with a ruling or order of the Building Official and
17 shall describe the nature of the complaint. Such appellant shall pay the cost
18 of all tests made or ordered by the Board of Examiners, Appeals and
19 Condemnation. Such notice shall be at once transmitted to the Board of
20 Examiners, Appeals and Condemnation, and the Board of Examiners,
21 Appeals and Condemnation shall thereafter fix a time and place for a
22 hearing, at which time all persons interested in the appeal shall be heard.
23 The Secretary shall give the appellant at least ten (10) days' notice of
24 hearing.

25 F. Filing requirement pertaining to public access for handicapped
26 persons. Any person may file a written notice of appeal with the Secretary
27 of the Board within thirty (30) days after an action is taken by the Building
28 Official regarding the regulations pertaining to public access for

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handicapped persons. A written notice shall be submitted together with a fee as set forth in Section 18.06.100. Such written notice shall state that the applicant is dissatisfied with a ruling or order of the Building Official and shall describe the nature of the complaint. Thereafter, the Disabled Access Appeals Board shall set a time and place for hearing the appeal and all persons interested shall be heard. The Secretary shall give the appellant at least ten (10) days notice of hearing.

Section 2. Section 18.10.030 of the Long Beach Municipal Code is hereby repealed.

Section 3. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three (3) conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the Mayor.

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of November 18, 2014, by

1 the following vote:

2
3 Ayes: Councilmembers: Gonzalez, Lowenthal, Price,
4 Mungo, Andrews, Uranga, Austin,
5 Richardson.

6
7 Noes: Councilmembers: None.

8
9 Absent: Councilmembers: O'Donnell.

10
11
12 Lay Hen Cohen
13 City Clerk

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15 Approved:

11/24/2014
(Date)

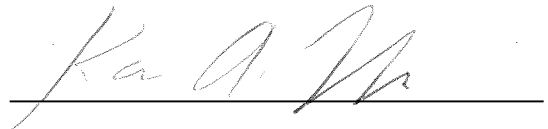
16
17 [Signature]
18 Mayor

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OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Loma Beach, CA 90802-4664

AFFIDAVIT OF POSTING

STATE OF CALIFORNIA) ss
COUNTY OF LOS ANGELES)
CITY OF LONG BEACH)

Karen Moore being duly sworn says: That I am employed in the Department of the City Clerk of the City of Long Beach; that on the 19th day of November, 2014, I posted three true and correct copies of Ordinance No. ORD-14-0019 in three conspicuous places in the City of Long Beach, to wit: One of said copies in the entrance lobby of City Hall in front of the Information Desk; one of said copies in the Main Library; and one of said copies on the front counter of the City Clerk Department.



Subscribed and sworn to before me
this 19th day of November, 2014.



CITY CLERK