

Ordinance 34-19

Planning and Zoning – Appeal Procedures

**Rules Committee Proposed Amendments
Arnett, Finlayson, and Savidge
7-14-20 Rules Cmte Mtg**

Amendment 1:

On page 2, in line 1 after “PERSON” insert “WHO IS SERVED” and strike “AGGRIEVED BY THE ISSUANCE OF” and in line 2 strike “SERVED” and in the same line strike “BY”

As amended:

- B. A PERSON WHO IS SERVED A MUNICIPAL INFRACTION CITATION BY THE DIRECTOR OF PLANNING AND ZONING OR A MISDEMEANOR CITATION INITIATED BY THE DIRECTOR MAY NOT APPEAL TO THE BOARD OF APPEALS.

Amendment 2:

On page 2, in line 10 strike the “period” and substitute a “comma” and insert “SAID GROUNDS ARE, INCLUDING BUT NOT LIMITED TO, AN ARBITRARY AND CAPRICIOUS ACT BY THE DIRECTOR, AN ABUSE OF DISCRETION BY THE DIRECTOR, AND ERRONEOUS FINDING OF FACT BY THE DIRECTOR, OR AN ERROR OF LAW BY THE DIRECTOR.”

As amended:

- A. Appeal Procedures. An appeal may be taken within thirty days after the decision ~~or the action~~ complained of, by filing with the PLANNING AND ZONING Director ~~from whom the appeal is taken~~ a notice of appeal specifying the grounds of the appeal, SAID GROUNDS ARE, INCLUDING BUT NOT LIMITED TO, AN ARBITRARY AND CAPRICIOUS ACT BY THE DIRECTOR, AN ABUSE OF DISCRETION BY THE DIRECTOR, AND ERRONEOUS FINDING OF FACT BY THE DIRECTOR, OR AN ERROR OF LAW BY THE DIRECTOR. The Director ~~from whom the appeal is taken~~ shall, at the SOLE expense of the appellant, forthwith transmit to the Board of Appeals all of the papers constituting the record upon which the action appealed from was taken.

Amendment 3:

On page 2, in line 24 strike “DE NOVO” and substitute “ON THE RECORD”

As amended:

3. BURDEN OF PROOF. THE HEARING BEFORE THE BOARD OF APPEALS SHALL BE ON THE RECORD. THE APPELLANT SHALL HAVE THE BURDEN OF PROOF.

Amendment 4:

On page 2 strike lines 26 through 29, and sequentially renumber subsequent subparagraphs.

As amended:

- ~~4. PROCEDURE. THE BOARD OF APPEALS SHALL ALLOW THE APPELLANT, THEN THE APPLICANT, TO CONDUCT DIRECT EXAMINATION, CROSS EXAMINATION, RE-DIRECT EXAMINATION, AND RE-CROSS EXAMINATION OF WITNESSES IN THAT ORDER.~~

Amendment 5:

On page 1, after line 26 insert “2.48.500” and on page 1, after line 37 insert

ARTICLE XVI – BOARDS, COMMISSIONS, COMMITTEES – RULES, PROCEDURES, AND BYLAWS

SECTION 2.48.500 - REPORTING - REQUIRED.

THE CHAIR OF THE PLANNING COMMISSION AND BOARD OF APPEALS SHALL SUBMIT EVERY 4 YEARS, AT MIDTERM, A REPORT ON ITS RULES, PROCEDURES, OR BYLAWS FOR REVIEW AND APPROVAL BY THE CITY COUNCIL. THESE RULES, PROCEDURES, OR BYLAWS MAY BE REVISED BY THE CITY COUNCIL PRIOR TO APPROVAL.

Amendment 6:

On page 1, strike lines 41 down through 44 and substitute “An appeal may be taken to the Board of Appeals by a person aggrieved, or by an officer, department, board or bureau of the City aggrieved by a decision of the Planning and Zoning Director other than the issuance of a misdemeanor citation.”