



Legislation Text

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Planning and Zoning - Appeal Procedures - For the purpose of clarifying the procedures governing an appeal of a decision of the Planning and Zoning Director; making stylistic changes; and generally related to appeal procedures.

**CITY COUNCIL OF THE
City of Annapolis**

Ordinance 34-19

Introduced by: Alderman Arnett

**Referred to
Planning Commission
Rules and City Government Committee**

AN ORDINANCE concerning

Planning and Zoning - Appeal Procedures

FOR the purpose of clarifying the procedures governing an appeal of a decision of the Planning and Zoning Director; making stylistic changes; and generally related to appeal procedures.

BY repealing and re-enacting with amendments the following portions of the Code of the City of Annapolis, 2019 Edition
2.48.500
21.30.010
21.30.020
21.30.030
21.30.040

SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that the Code of the City of Annapolis shall be amended to read as follows:

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.

Title 21 - PLANNING AND ZONING

Chapter 21.30 - APPEALS

Section 21.30.010 - Purpose and authority.

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

Section 21.30.020 - Procedures.

- 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.
- B. Review Procedures.
1. Notice and Hearing. The Board of Appeals shall select a reasonable time and place for the hearing of the appeal. Notice of the hearing ~~must~~ SHALL be given in accordance with the notice requirements set forth in Sections 21.10.020(B) and 21.10.020(C).
 2. STANDING. IF THE APPELLANT IS NOT THE APPLICANT, THE APPLICANT SHALL HAVE PARTY STATUS AND BE PERMITTED TO PARTICIPATE IN THE APPEAL IN THE MANNER DESCRIBED IN SUBPARAGRAPH 4.
 3. BURDEN OF PROOF. THE HEARING BEFORE THE BOARD OF APPEALS SHALL BE DE NOVO ON THE RECORD. THE APPELLANT SHALL HAVE THE BURDEN OF PROOF.
 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.
 24. Decision. The Board OF APPEALS shall reach its decision within forty days from the date of the hearing. The Board of Appeals may affirm or reverse, wholly or in part, or may modify the order, requirement, decision or determination as ought to be made or the Board may issue a new order, requirement, decision or determination. To that end, the Board has all the powers of the PLANNING

AND ZONING DIRECTOR ~~officer from whom the appeal is taken.~~

35. Notice of Decision. The PLANNING AND ZONING Director ~~from whom the appeal is taken~~ shall give notice of the decision OF THE BOARD OF APPEALS in accordance with the requirements ~~set forth in~~ OF Section 21.10.020(E).
46. Record of Decisions. The Planning and Zoning Director shall maintain records of all actions of the Board of Appeals relative to appeals taken ~~from their actions~~ pursuant to this section.

Section 21.30.030 - Stay pending appeal.

An appeal to the Board of Appeals pursuant to the preceding section shall stay all ACTIONS ON THE APPLICATION WHICH IS THE SUBJECT OF THE APPEAL ~~proceedings in furtherance of the action~~ appealed ~~only as provided by the Land Use Article of the Annotated Code of Maryland (or its successors).~~

Section 21.30.040 - ~~Appeal~~JUDICIAL REVIEW.

Any person aggrieved by any decision of the Board of Appeals may ~~appeal~~ FILE A PETITION FOR JUDICIAL REVIEW OF that decision to the eCircuit eCourt of Anne Arundel County.

SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that this ordinance shall take effect from the date of its passage.

Explanation:

UPPERCASE indicates matter added to existing law.
~~Strikethrough~~ indicates matter stricken from existing law.
Underlining indicates amendments.