



Legislation Text

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Appeals Process for Property Development in Annapolis - For the purpose of eliminating the temporary stop on development, construction or other project work, called a "stay," while a Department of Planning and Zoning or Department of Public Works decision regarding building and construction developments is being challenged in Circuit Court; and generally dealing with the appeals process in Titles 17 and 21 of the City Code.

**CITY COUNCIL OF THE
City of Annapolis**

Ordinance 33-24

Introduced by: Alderwoman Finlayson

Co-sponsor: Mayor Buckley, Alds. Schandelmeier, Gay

Referred to:

Planning Commission
Housing and Human Welfare Committee
Economic Matters Committee
Rules and City Government Committee
Board of Appeals

AN ORDINANCE concerning

Appeals Process for Property Development in Annapolis

FOR the purpose of eliminating the temporary stop on development, construction or other project work, called a "stay," while a Department of Planning and Zoning or Department of Public Works decision regarding building and construction developments is being challenged in Circuit Court; and generally dealing with the appeals process in Titles 17 and 21 of the City Code.

BY repealing and reenacting with amendments the following portions of the Code of the City of Annapolis,

2024 Edition:

17.48.300
21.22.120
21.24.130
21.30.020
21.30.030
21.30.040
21.56.110
22.30.010
22.32.020

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:

**Title 17 - BUILDINGS AND CONSTRUCTION
Chapter 17.48 - Nonresidential Property Maintenance**

Section 17.48.300 Notice to correct-Appeal.

~~D. The decision of the Board in all cases shall be final; except, that any appellant or party directly aggrieved by a decision of the Board, within thirty days after the rendering of the decision, may appeal to the circuit court for the County. The findings of fact of the Board shall be conclusive, and judicial review shall be limited solely to errors of law and questions of constitutionality. The decision of the Board in any case on appeal shall be stayed pending a decision of the court.~~

D. Appeals of Board Decisions.

1. The decision of the Board in all cases shall be final.
2. Any appellant or party aggrieved by the Board's decision may appeal to the Circuit Court for Anne Arundel County within 30 days of the decision.
3. The Board's findings of fact shall be conclusive, and judicial review will be limited to errors of law and questions regarding constitutionality.

**Title 21 - PLANNING AND ZONING
Division II - Administration and Enforcement
Chapter 21.22 - Site Design Plan Review**

Section 21.22.120 Appeal.

- A. Any appeals of a decision of the Planning and Zoning Director must be made to the Board of Appeals in conformance with the provisions of Chapter 21.30.
- B. An appeal from a decision of the Planning Commission under this chapter shall be made to the Circuit Court of Maryland for Anne Arundel County.
1. Notice of the appeal shall be provided to the Director of Planning and Zoning at least five calendar days before the appeal is filed with the court.
 2. An appeal filed pursuant to this section does not stay the action from which the appeal is taken unless provided by state law or an order entered by a court of competent jurisdiction.

**Title 21 - PLANNING AND ZONING
Division II - Administration and Enforcement
Chapter 21.24 - Planned Developments**

Section 21.24.130 Appeals.

~~Appeal of Planning Commission Decision. An appeal from a decision of the Planning Commission under this chapter shall be made to the Circuit Court of Maryland for Anne Arundel County.~~

Appeal of Planning Commission Decision.

1. An appeal from a decision of the Planning Commission under this chapter shall be made to the Circuit Court for Anne Arundel County.
2. Notice of the appeal shall be provided to the Director of Planning and Zoning at least five calendar days before the appeal is filed with the court.
3. An appeal filed pursuant to this section does not stay the action from which the appeal is taken unless provided by state law or an order entered by a court of competent jurisdiction

**Title 21 - PLANNING AND ZONING
Division II - Administration and Enforcement
Chapter 21.30 - Appeals**

Section 21.30.020 Procedures.

A. ~~**Appeal Procedures.** An appeal may be taken within thirty days after the decision complained of, by filing with the Planning and Zoning Director 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 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.~~

1. An appeal may be filed within 30 days of the decision being challenged.
 - a. The notice of appeal shall be submitted to the Director of Planning and Zoning.
 - b. The notice shall clearly state the grounds for the appeal, which may include, but are not limited to, any arbitrary or capricious actions by the Director, abuse of discretion by the Director, erroneous findings of fact, or errors of law made by the Director.
2. The Director shall, at the appellant's sole expense, promptly send to the Board of Appeals all documents that make up the record upon which the appealed action was based.

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 shall be given in accordance with the notice requirements set forth in Sections 21.10.020(B) and 21.10.020(C).
 - a. A hearing shall be conducted expeditiously to determine the facts, apply the criteria of this code to the facts presented at the hearing, and decide the appeal.
 - b. The Board of Appeals shall select a reasonable time and place for the appeal hearing, not later than 45 days from the date of the appeal filing or at the board's immediate next regular hearing date following.

- c. Parties to the appeal shall be heard in person at the hearing and shall not be required to file or respond to legal briefs within the proceedings of an appeal.
 - d. Notice of the hearing shall be given in accordance with the notice requirements set forth in § 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 fully in the appeal. ~~in the manner described in Subparagraph 4.~~
3. **Burden of Proof.** ~~The hearing before the Board of Appeals shall be on the record. The appellant shall have the burden of proof.~~
 - a. The hearing before the Board of Appeals shall be on the record, meaning the record shall comprise the information available to the Director at the time the decision being appealed was made.
 - b. The appellant shall have the burden of proof.
4. **Decision.** ~~The Board of Appeals shall reach its decision within forty days from the date of the hearing. The Board 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.~~
 - a. The Board of Appeals shall reach its decision within 40 days from the date of the hearing.
 - b. The Board may affirm or reverse, wholly or in part, or may modify the order, requirement, decision or determination as ought to be made, or it may issue a new order, requirement, decision or determination.
 - c. To carry out these functions, the Board is vested with all the powers of the Director of Planning and Zoning.
5. **Notice of Decision.** ~~The Director of Planning and Zoning Director shall give notice of the decision of the Board of Appeals in accordance with the requirements of Section 21.10.020.E§ 21.10.020(E).~~
6. **Record of Decisions.** ~~The Director of Planning and Zoning Director shall maintain records of all actions of the Board of Appeals relative to appeals taken 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.

Section 21.30.040 Judicial Review.

~~Any person aggrieved by any decision of the Board of Appeals may file a petition for judicial review of that decision to the Circuit Court of Anne Arundel County.~~

- A. Any person aggrieved by any decision of the Board of Appeals may appeal that decision to the Circuit Court for Anne Arundel County.

- B. Notice of the appeal shall be provided to the Director of Planning and Zoning at least five days before the appeal is filed with the court.
- C. An appeal filed pursuant to this section does not stay the action from which the appeal is taken unless provided by State law or an order entered by a court of competent jurisdiction.

Title 21 - PLANNING AND ZONING
Division IV - Overlay District Regulations
Chapter 21.56 - Historic District
Article I - Approval of Exterior Changes

Section 21.56.110 Appeals.

~~Any person or persons, firm or corporation aggrieved by a decision of the Commission has a right of appeal to the Anne Arundel County Circuit Court and a further appeal to the Court of Special Appeals of Maryland. Appeal requests must be filed within thirty days from the date of the Commission decision.~~

- A. Any person or persons, firm or corporation aggrieved by a decision of the Commission has a right of appeal to the Circuit Court for Anne Arundel County and a further appeal to the Court of Special Appeals of Maryland.
- B. Appeal requests must be filed within 30 days from the date of the Commission decision
- C. An appeal filed with the court pursuant to this section does not stay the action from which the appeal is taken unless mandated by State law or pursuant to an order entered by a court of competent jurisdiction.

Title 22 - ADEQUATE PUBLIC FACILITIES
Chapter 22.32 - Appeals

Section 22.32.010 Appeals.

~~An appeal from the decision of the Director of Planning and Zoning to approve or deny an application for a Certificate of Adequate Public Facilities shall be made to the Board of Appeals in conformance with the provisions of Title 21, Chapter 21.30.~~

- A. An appeal regarding the decision made by the Director of Planning and Zoning to approve or deny an application for a Certificate of Adequate Public Facilities shall be submitted to the Board of Appeals in accordance with the provisions outlined in Title 21, Chapter 21.30.
- B. An appeal to the Board of Appeals pursuant to the preceding section shall stay all actions on the subject application, but said stay shall apply only during the Board of Appeals review.
- C. Any person aggrieved by a decision of the Board of Appeals under this section may appeal that decision to the Circuit Court for Anne Arundel County.
- D. Notice of the appeal shall be provided to the Director of Planning and Zoning at least five calendar days

prior to any appeal being filed with the circuit court.

E. An appeal filed with the circuit court pursuant to this section does not stay the action from which the appeal is taken unless mandated by State law or pursuant to an order entered by a court of competent jurisdiction.

~~Section 22.32.020 Stay pending appeal.~~

~~An appeal shall stay all proceedings in furtherance of the action appealed.~~

SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that this ordinance shall take effect upon passage.