

PROPOSED

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2025, Legislative Day No. 7

Bill No. 28-25

Introduced by Ms. Hummer, Chair

By the County Council, April 7, 2025

Introduced and first read on April 7, 2025
Public Hearing set for May 5, 2025
Bill Expires on July 11, 2025

By Order: Kaley Schultze, Administrative Officer

A BILL ENTITLED

1 AN ORDINANCE concerning: Rules of Practice and Procedure of the Board of
2 Appeals – Amendments

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4 FOR the purpose of amending the frequency of Board of Appeals meetings; requiring a
5 quorum for all hearings; updating references to the Board's Counsel and record
6 keeping; requiring fees for appeals; allowing certain communication to be sent by first
7 class mail or electronic mail; establishing procedures and standards for on-site visits;
8 correcting references to the Chair; and generally relating to the Rules of Practice and
9 Procedure of the Board of Appeals.

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11 BY repealing: Appendix B, Rule 2-101(e)

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13 BY repealing and reenacting, with amendments: Appendix B, Rule 1-103; Rules 1-104 (b);
14 Rules 2-101(b) through (d); Rule 2-103(a); Rule 2-104; Rule 3-103 (b); Rule 4-101 (a),
15 (b), and (g); Rule 4- 103 (b); Rule 4-104 (e); Rule 4-105(a); and Rule 5-101(b)
16 Anne Arundel County Code (2005, as amended)

17
18 BY adding: Appendix B, Rule 4-106
19 Anne Arundel County Code (2005, as amended)

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21 SECTION 1. *Be it enacted by the County Council of Anne Arundel County, Maryland,*
22 That Appendix B, Rule 2-101(e) of the Rules of Practice and Procedure of the Board of
23 Appeals be repealed.

EXPLANATION: CAPITALS indicate new matter added to existing law.
[[Brackets]] indicate matter deleted from existing law.
Captions and taglines in **bold** in this bill are catchwords and are not law.
Asterisks *** indicate existing Code provisions in a list or chart that remain unchanged.

SECTION 2. *And be it further enacted*, That the amendments to the Rules of Practice and Procedure as adopted by the Board of Appeals are hereby approved as follows:

APPENDIX B. RULES OF PRACTICE AND PROCEDURE OF THE BOARD OF APPEALS

TITLE 1. IN GENERAL

Rule 1-103. Meetings.

(a) **Frequency.** Meetings of the County Board of Appeals shall be held at the call of the Chair and at such other times as the Board may determine[, but in no event shall it be less than once a month]].

(b) **Quorum.** Four members of the Board shall constitute a quorum for the conduct of business[; except that three members shall constitute a quorum for hearings on special exceptions, variances, and administrative appeals]]. Site visits pursuant to Rule 4-101(g) are not governed by this rule.

(c) **Minutes.** The Board shall keep minutes of its proceedings, showing the vote, failure to vote, or absence of each member on each question, all of which shall be filed promptly in the office of the Board as a public record after approval by all Board members.

(d) **Participation in decision.** Only those members who have actually heard all the evidence and testimony in an appeal shall participate in the decision unless all parties to the appeal shall agree otherwise, except that the Chair of the hearing shall have the ability to permit a member to listen to the [[official stenographer's]] BOARD'S COUNSEL recording for any missed hearing or any missed portion of a hearing, as applicable, and participate in the decision. In no event shall a member be permitted to participate in a decision if that member misses the first hearing on any appeal.

Rule 1-104. Administrative matters.

(b) **Docket and minute book.** The Clerk shall keep a docket and minute [[book]] DATABASE which shall be kept posted to date. The Clerk shall docket the case in the name of the original applicant[, note the name of the appellant,] and include a short description of the subject matter of the appeal and the number assigned to the appeal. In cases involving real property, a brief description of the property shall also be included.

TITLE 2. COMMENCEMENT OF ACTION

Rule 2-101. Appeals.

(b) **Notice of appeal from Administrative Hearing Officer decision.** In appeals from the decisions of the Administrative Hearing Officer, the notice of appeal shall include the following information:

(1) the title of the proceedings;

(2) the name of the applicant;

1 (3) the application or case number;

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3 (4) [[the date of the public hearing before the Administrative Hearing Officer]] THE
4 DATE OF DECISION;

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6 (5) [[the date of the decision]] A COPY OF THE DECISION;

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8 (6) a [[copy of the decision]] GENERAL STATEMENT OF THE BASIS FOR THE
9 APPEAL; and

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11 (7) [[a general statement of the basis for the appeal]] THE APPLICABLE FEE.

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13 (c) **Notice of appeal from decisions involving real property.** In appeals from
14 administrative decisions of County offices involving real property, the notice of appeal
15 shall include the following information:

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17 (1) location of the subject property;

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19 (2) number of the councilmanic district in which the subject property is located;

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21 (3) names and mailing addresses of owners of real property within 175 feet of
22 the subject property;

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24 (4) the name of the applicant;

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26 (5) a copy of the decision from which the appeal is taken; [[and]]

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28 (6) a general statement of the basis for the appeal; AND

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30 (7) THE APPLICABLE FEE.

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32 (d) **Notice for all other appeals.** In all other appeals, the notice shall include the
33 following information:

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35 (1) the name of the applicant;

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37 (2) a copy of the order or decision from which the appeal is taken;

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39 (3) the name of the officer making that order or decision and the date thereof;
40 [[and]]

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42 (4) a general statement of the basis for the appeal; AND

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44 (5) THE APPLICABLE FEE.

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46 **Rule 2-103. Fees.**

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48 (a) **Generally.** A notice of appeal [[may]] SHALL be accepted by the County Board of
49 Appeals only when accompanied by the relevant fee listed below:

1 (1) Appeals from decisions of the Administrative Hearing Officer relating to
2 reclassifications and special exceptions and appeals from decisions of the Department of
3 Inspections and Permits relating to grading permits, \$400.

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5 (2) All other appeals, \$250.

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7 **Rule 2-104. Notice of hearing.**

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9 (a) **Generally.** Notice of the hearing of an appeal, excluding an appeal relating to a
10 grading permit, shall be given by ~~[[mailing a notice]]~~ BY FIRST CLASS MAIL OR
11 ELECTRONIC MAIL, at least 30 days before the date of the hearing. Notice of the hearing of
12 an appeal relating to a grading permit shall be given in as timely a manner as practicable,
13 either orally or in writing. Notice shall be given to:

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15 (1) the appellant or the appellant's attorney if the appellant is represented by an
16 attorney, at the address stated in the notice of appeal;

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18 (2) the Administrative Hearing Officer or other official whose order or decision is
19 being appealed;

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21 (3) the County Attorney;

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23 (4) the original applicant or the original applicant's attorney; and

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25 (5) other interested parties as the Board may deem appropriate.

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27 (b) **Publication.** Notice of the hearing of any appeal shall be published once a week for
28 not less than two consecutive weeks, in ~~[[two newspapers]]~~ ONE NEWSPAPER of general
29 circulation published in the County. Such notice shall specify the time, date, place, and
30 subject of the hearing. The hearing shall be not less than six days following the final
31 newspaper publication. The Clerk shall post the notice on the County's website when the
32 hearing date is set.

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34 **TITLE 3. PREHEARING PROCEDURE**

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36 **Rule 3-103. Request for postponement.**

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38 (b) **Form of request; decision.** A request for postponement shall be in writing, stating
39 in detail the reasons the postponement is desired. The request shall include a statement by
40 the party making the request, agreeing to pay any additional expenses incurred if the
41 postponement is granted, including readvertising, costs of the official stenographer, and
42 other reasonable administrative costs as assessed by the Board. Copies of all requests shall
43 be ~~[[mailed]]~~ SENT BY FIRST CLASS MAIL OR ELECTRONIC MAIL to all parties and attorneys
44 of record and to the County Attorney. The request for postponement shall be decided by a
45 majority vote of a quorum of the Board.

TITLE 4. HEARINGS

Rule 4-101. Conduct of hearings.

(a) **Generally.** All hearings before the County Board of Appeals shall be public. THE BOARD MAY NOT RECEIVE WRITTEN OR ORAL TESTIMONY OR EXHIBITS OUTSIDE OF A HEARING. BOARD MEMBERS AND THE BOARD'S STAFF MAY NOT ENGAGE IN COMMUNICATIONS OF ANY KIND WITH ANYONE OTHER THAN BOARD COUNSEL OR STAFF, OR OTHER BOARD MEMBERS REGARDING THE MERITS OF A CASE UNTIL THE DECISION AND ORDER BECOME FINAL. No hearing shall be private even though all parties agree. All witnesses shall testify under oath, administered by the Chair, BOARD'S COUNSEL, the Clerk or the Assistant Clerk. All persons attending the meeting who decline to testify may sign the witness list and thereby be provided with notice of all future proceedings involving the appeal.

(b) **Stenographer and transcripts.** The Board shall furnish an official stenographer for taking testimony of the hearing in all appeals. Anyone desiring a transcript of the testimony may obtain a copy from the official stenographer and shall bear the full cost. The Board is not required to furnish a stenographer during [[an on-site inspection]] A SITE VISIT conducted pursuant to subsection (g).

(g) **Site visits.** [[Upon request of any party or upon its own motion,]] Board members may visit the site which is the subject of the appeal. SITE VISITS MAY BE ANNOUNCED BY THE CHAIR ON THE RECORD. ANY ATTEMPTS TO COMMUNICATE WITH BOARD MEMBERS DURING A SITE VISIT ARE PROHIBITED. [[Parties and their representatives may be present to observe, but no testimony may be taken. The parties or their representatives are prohibited from engaging in any discussion with Board members at the site visit. Board members are prohibited from engaging in any discussion with the parties or their representatives at the site visit. A member who has not participated in the site visit prior to the Board's vote on the appeal may not participate in the decision.]]

Rule 4-103. Subpoenas.

(b) **Issuance.** The Board may cause subpoenas and subpoenas duces tecum to be issued upon its own motion, or upon the application of any party OF RECORD to any hearing; but any such application shall be in writing and shall set forth the persons, books, papers or other documents to be produced and a general statement as to the purpose of the subpoena.

Rule 4-104. Evidence.

(e) **Expert witnesses.** The [[Chairman]] CHAIR may qualify expert witnesses on the basis that their testimony, in the form of an opinion or otherwise, will assist the Board in understanding evidence or determining a fact at issue. In making the qualification, the [[Chairman]] CHAIR shall consider (1) whether the witness is qualified as an expert by knowledge, skill, experience, training or education; (2) the appropriateness of the testimony for the particular case; and (3) whether sufficient facts exist to support the testimony.

Rule 4-105. Findings and conclusions.

(a) **Generally.** Within 60 days after the termination of the hearing, the County Board of Appeals shall prepare and file in the proceedings a written succinct memorandum of opinion, including its findings and conclusions. If the Board determines that more than 60 days are required, the Clerk shall so notify the parties. For purposes of this subsection, a hearing shall be considered terminated upon the closing of testimony, [[the conducting of an on-site inspection,]] or the submission of any final items of evidence or written arguments pursuant to an order of the Board, whichever shall occur last. The Board's decision shall rest entirely upon the pleadings and the evidence.

TITLE 5. APPEALS

Rule 5-101. Appeals from decisions of the Board.

(b) **Notice.** Upon receipt of the copy of the first petition for judicial review filed with the Court and unless otherwise ordered by the Court, the Clerk to the Board shall give written notice promptly by [[ordinary]] FIRST CLASS OR ELECTRONIC mail to all parties to the Board's proceedings that a petition for judicial review has been filed, the date of the filing, the name of the Court, and the civil action number and that a party wishing to oppose the petition must file a response within 30 days after the date the notice was mailed unless the Court shortens or extends the time. The Clerk shall file with the Court a certificate of compliance with this requirement, pursuant to Maryland Rule 7-202(e).

SECTION 3. *And be it further enacted,* That a certified copy of the Rules of Practice and Procedure approved by this Ordinance shall be kept permanently on file in the Office of the Administrative Officer to the County Council and in the Office of the County Board of Appeals.

SECTION 4. *And be it further enacted,* That this Ordinance shall take effect 45 days from the date it becomes law.