

FINAL

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2021, Legislative Day No. 3

Bill No. 13-21

Introduced by Ms. Lacey, Chair

and by Ms. Pickard and Mr. Pruski

By the County Council, February 1, 2021

Introduced and first read on February 1, 2021
Public Hearing set for and held on March 1, 2021
Bill Expires on May 7, 2021

By Order: Laura Corby, Administrative Officer

A BILL ENTITLED

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

3
4 FOR the purpose of amending the attendance requirements for participating in decisions;
5 amending provisions that allow for withdrawal of an appeal; allowing the costs of a
6 stenographer to be assessed in certain postponements; allowing remote or virtual
7 meetings; establishing procedures for remote or virtual meetings; making this
8 Ordinance an emergency measure; and generally relating to the Rules of Practice and
9 Procedure of the Board of Appeals.

10
11 BY repealing and reenacting, with amendments: Appendix B, Rule 1-103(d); Rule 3-102;
12 and Rule 3-103(b)
13 Anne Arundel County Code (2005, as amended)

14
15 BY adding: Appendix B, Rule 4-106
16 Anne Arundel County Code (2005, as amended)

17
18 SECTION 1. *Be it enacted by the County Council of Anne Arundel County, Maryland,*
19 That the amendments to the Rules of Practice and Procedure as adopted by the Board of
20 Appeals are hereby approved as follows:

21
22 **APPENDIX B. RULES OF PRACTICE AND PROCEDURE OF THE BOARD OF**
23 **APPEALS**

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.

TITLE 1. IN GENERAL

Rule 1-103. Meetings.

(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[[, if the minimum attendance requirements are met,]] the Chair of the hearing shall have the ability to permit a member to listen to the official stenographer’s recording for any missed hearing or any missed portion of a hearing, as applicable, and participate in the decision. [[A member may not participate in a decision if they do not attend the sole hearing on an appeal. For an appeal with more than one hearing date, a member shall attend one of the first two hearings of any appeal in order to 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.

TITLE 3. PREHEARING PROCEDURE

Rule 3-102. Withdrawal.

[[a) **Generally.**]] An appellant may withdraw an appeal [[at any time within 30 days of the date of the order or decision being appealed]]. A request for withdrawal shall be in writing and the Board shall serve a copy on:

- (1) the [[Administrative Hearing Officer or other]] official whose decision is being appealed;
- (2) the County Attorney; and
- (3) all parties of record to the proceedings and their attorneys.

[[b) Effect of withdrawal except for grading permits.

(1) Excluding a withdrawal of an appeal relating to a grading permit filed under § 16-3-106 of the Anne Arundel County Code, filing a withdrawal pursuant to subsection (a) shall extend by 10 days the time within which an appeal may be taken by any other party.

(2) For an appeal relating to a grading permit, the provisions of § 16-3-106 of the Anne Arundel County Code shall control.

(c) **Withdrawal after 30 days.** An appellant who seeks to withdraw an appeal at any time after 30 days following the date of the order or decision being appealed may do so if no objection to the withdrawal is made by any other party or any owner of real property within 175 feet of the subject property, or if granted permission to withdraw by the Board upon good cause shown.]]

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

2
3 (b) **Form of request; decision.** A request for postponement shall be in writing, stating
4 in detail the reasons the postponement is desired. The request shall include a statement by
5 the party making the request, agreeing to pay any additional expenses incurred if the
6 postponement is granted, including readvertising, COSTS OF THE OFFICIAL
7 STENOGRAPHER, and other reasonable administrative costs as assessed by the Board.
8 Copies of all requests shall be mailed to all parties and attorneys of record and to the County
9 Attorney. The request for postponement shall be decided by a majority vote of a quorum
10 of the Board.

11
12 **TITLE 4. HEARINGS**

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14 **Rule 4-106. Virtual or remote hearings; meetings; calculation of time.**

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16 (A) **Generally.** WHEN THE CHAIR OF THE BOARD DETERMINES THAT EMERGENCY OR
17 EXTENUATING CIRCUMSTANCES EXIST, THE BOARD SHALL BE PERMITTED TO CONDUCT
18 HEARINGS IN A VIRTUAL OR REMOTE FORMAT.

19
20 (B) **Notice.** THE NOTICE OF THE HEARING OR THE BOARD'S WEBSITE, OR BOTH, SHALL
21 STATE THAT THE HEARING WILL BE HELD VIRTUALLY AND SHALL STATE THE TIME, DATE,
22 VIRTUAL LOCATION, AND REGISTRATION INFORMATION.

23
24 (C) **Public access.** THE BOARD SHALL ENSURE THAT THE PUBLIC HAS THE ABILITY TO
25 LISTEN TO THE PROCEEDING THROUGH REMOTE ELECTRONIC MEANS.

26
27 (D) **Hearing participants.** ALL INTERESTED PARTICIPANTS, PARTIES, AND PROPOSED
28 WITNESSES SHALL REGISTER WITH THE BOARD PRIOR TO THE HEARING USING THE
29 OPTIONS FOR REGISTRATION SET FORTH IN THE NOTICE OF THE HEARING OR ON THE
30 BOARD'S WEBSITE. ALL PERSONS MUST BE SHOWN USING THEIR FULL NAME OR NAME ON
31 RECORD WHILE IN THE VIRTUAL OR REMOTE HEARING. EACH WITNESS SHALL ENABLE
32 AND USE BOTH VIDEO AND AUDIO AT ALL TIMES DURING THEIR TESTIMONY. ALL
33 VIEWABLE PARTICIPANTS IN THE HEARING SHALL WEAR APPROPRIATE ATTIRE AND
34 PRESENT THEMSELVES AS THEY WOULD IF THEY WERE APPEARING IN A PHYSICAL
35 HEARING ROOM. ALL PARTICIPANTS SHALL ENSURE THAT THERE WILL BE NO
36 INTERRUPTIONS OR DISTRACTIONS FOR THE DURATION OF THEIR APPEARANCE AT THE
37 HEARING.

38
39 (E) **Right to object to virtual or remote hearings.**

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41 (1) **Generally.** ANY PARTY TO AN APPEAL MAY OBJECT IN WRITING TO A HEARING
42 BEING CONDUCTED IN A VIRTUAL OR REMOTE FORMAT. AN OBJECTION TO A VIRTUAL OR
43 REMOTE HEARING MAY NOT BE GRANTED EXCEPT FOR GOOD CAUSE SHOWN.

44
45 (2) **Form of request; decision.** AN OBJECTION TO A VIRTUAL OR REMOTE HEARING
46 FORMAT SHALL BE IN WRITING, STATING IN DETAIL THE REASONS FOR THE OBJECTION.
47 THE OBJECTION SHALL INCLUDE A STATEMENT BY THE PARTY OBJECTING THAT THE
48 PARTY AGREES TO PAY ANY ADDITIONAL EXPENSES INCURRED IF THE OBJECTION IS
49 GRANTED, INCLUDING READVERTISING, COSTS OF THE OFFICIAL STENOGRAPHER, AND
50 OTHER REASONABLE ADMINISTRATIVE COSTS AS ASSESSED BY THE BOARD. COPIES OF
51 THE OBJECTION SHALL BE MAILED OR EMAILED BY THE CLERK TO ALL PARTIES AND
52 ATTORNEYS OF RECORD AND TO THE COUNTY ATTORNEY. THE OBJECTION TO A VIRTUAL
53 OR REMOTE HEARING FORMAT SHALL BE DECIDED BY A MAJORITY VOTE OF A QUORUM
54 OF THE BOARD.

1 (F) **Exhibits.** ALL PARTICIPANTS SHALL PRE-FILE PROPOSED EXHIBITS AT LEAST
2 SEVEN (7) CALENDAR DAYS IN ADVANCE OF THE VIRTUAL OR REMOTE HEARING
3 THROUGH THE OPTIONS FOR FILING SET FORTH IN THE NOTICE OF THE HEARING OR ON
4 THE BOARD'S WEBSITE. THE CHAIR MAY ALLOW EXHIBITS NOT SUBMITTED PRIOR TO THE
5 HEARING TO BE USED AT THE HEARING, SUCH AS DOCUMENTS USED TO IMPEACH A
6 WITNESS OR FOR REBUTTAL. AT THE CHAIR'S DISCRETION, THE CHAIR MAY PERMIT A
7 PARTY TO TRANSMIT AN EXHIBIT TO THE BOARD DURING THE HEARING BY EMAIL OR
8 OTHER METHOD APPROVED BY THE CHAIR. UPON THE CONCLUSION OF THE HEARING, THE
9 CLERK OF THE BOARD MAY NOT BE OBLIGATED TO MAINTAIN ANY PROPOSED EXHIBITS
10 THAT WERE NOT MADE PART OF THE RECORD AND MAY DELETE THEM FROM AN E-MAIL
11 INBOX, VIRTUAL DROP BOX, OR OTHER VIRTUAL STORAGE FOLDER AT THE CLERK'S
12 CONVENIENCE.
13

14 (G) **Calculation of dates during state of emergency.** IF THE OFFICE OF THE BOARD IS
15 CLOSED TO THE PUBLIC DUE TO A STATE OF EMERGENCY, APPEALS AND EVIDENCE SHALL
16 BE DELIVERED THROUGH THE OPTIONS FOR FILING SET FORTH ON THE BOARD'S WEBSITE.
17 IF THE DELIVERY DATE OF ANY ITEMS RECEIVED BY THE BOARD CANNOT BE
18 IMMEDIATELY DETERMINED, THE DELIVERY DATE SHALL BE PRESUMED TO BE THE NEXT
19 BUSINESS DAY AFTER THE CLERK LAST RECEIVED DELIVERIES.
20

21 SECTION 2. *And be it further enacted,* That a certified copy of the Rules of Practice
22 and Procedure approved by this Ordinance shall be kept permanently on file in the Office
23 of the Administrative Officer to the County Council and in the Office of the County Board
24 of Appeals.
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26 SECTION 3. *And be it further enacted,* That this Ordinance is hereby declared to be an
27 emergency ordinance necessary for the immediate preservation of the public peace, health,
28 safety, welfare, and property, and being passed by the affirmative vote of five members of
29 the County Council, the same shall take effect from the date it becomes law.

READ AND PASSED this 1st day of March, 2021

By Order:



Laura Corby
Administrative Officer

PRESENTED to the County Executive for his approval this 2nd day of March, 2021



Laura Corby
Administrative Officer

APPROVED AND ENACTED this 2nd day of March, 2021



Steuart Pittman
County Executive

EFFECTIVE DATE: March 2, 2021

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF
BILL NO. 13-21. THE ORIGINAL OF WHICH IS RETAINED IN THE
FILES OF THE COUNTY COUNCIL.



Laura Corby
Administrative Officer