

Council of the Town of Leonardtown

Date Introduced on First Reading: 12/9/13

Date Adopted on Second Reading: 1/13/14

Date Effective: 2/2/14

Ordinance No. 158

Zoning Ordinance Text Amendment

**Subject: Article XX – §155-134.C - Rules
of Procedure for Appeals Conducted by
the Board of Appeals**

Purpose

An ordinance concerning rules of procedure for appeals initiated by an applicant and conducted by the Board of Appeals

For the purpose of amending the Code of the Town of Leonardtown in order to revise existing provisions.

Ordinance

Section I: Be it ordained by the Council of the Town of Leonardtown that Article XX, §155-134 is hereby amended as follows:

C. I. An application for administrative appeal shall be submitted and accompanied by the following materials and information:

- A. All documents and records upon which the application for appeal is based, including the final order, requirement, decision or determination being reviewed.
- B. A specific reference to each section of the Town Code that authorizes the Appeals Board to hear the application and grant the requested relief.
- C. Names and addresses of adjacent property owners as required by this Chapter 155 of the Town Code.
- D. The following materials and information need not be submitted by the Appellant with the application but shall be submitted no later than 30 days prior to the contested case hearing.

1. All documents, records and exhibits that were available, but not presented at the time the contested decision was made, that the appellant intends to rely upon at the contested case hearing.
2. A summary of what the Appellant expects to prove, including the names of appellant's witnesses, summaries of the testimony of expert witnesses and the estimated time required for presentation of the Appellant's case. All reports from experts shall be filed with the Board and appropriate Town Officials at least 15 days prior to the contested case hearing.

II. Order of Presentation for the Hearing:

Establish a quorum of Board of Appeals members. Presentation of the official record of exhibits as noted in Section I by the Board of Appeals, notations of any objections to any part of the record and other preliminary matters.

The examination by the members of the Board of Appeals is permitted at any time. All witnesses will testify under oath. The order of presentation and cross examination of all witnesses shall be as follows:

1. Opening statement by the Appellant.
2. Opening statement by the Town Officials.
3. Presentation of testimony and exhibits by the Town Officials.
4. Cross-examination by Appellant, if desired.
5. Presentation of testimony and exhibits by the Appellant.
6. Cross-examination by Town Officials, if desired.
7. Formal receipt into evidence of the record by the Board of Appeals.
8. Closing statement by the Appellant.
9. Closing statement by the Town Officials.

III. Burden of Proof

The Appellant shall have the burden of proof which shall include the burden of going forward with the evidence and the burden of persuasion, by a preponderance of the evidence, on all issues of fact.

IV. Decisions of the Board

Decisions of the Board shall comply with the following requirements:

- A. Evidence of record – All decisions of the Board shall be based solely upon the evidence of record presented at this hearing.
- B. Form and time – Decisions of the Board shall be in writing, shall contain findings and conclusions and shall be rendered within thirty (30) days from the date of the public hearing unless such time is extended by the

Board. A majority vote of the Board, based on the members present, is required to grant an Appeal.

All Rules of Procedure are to be applied to the proceedings as interpreted by the Chair of the Appeals Board.

Section II: And Be It Further Ordained, that this Ordinance shall become effective twenty (20) days following approval by the Mayor or passage by the affirmative vote of four-fifths of the whole Council after veto by the Mayor.

Attest:

Commissioners of Leonardtown:

Laschelle E. McKay
Town Administrator

Leslie Roberts
Vice President

Tom Collier
Council Member

J. Maguire Mattingly IV
Council Member

Roger L. Mattingly
Council Member

Hayden T. Hammett
Council Member

This ordinance was presented to the Mayor for his approval or disapproval pursuant to Section 210 of the Charter of the Town of Leonardtown this day of , 2014.

Laschelle E. McKay, Town Administrator

In accordance with Section 210 of the Charter of the Town of Leonardtown, I hereby (Approve) or (Disapprove) _____ this Ordinance the day of , 2014.

Daniel W. Burris, Mayor