

Ordinance No. xxx-24

An Ordinance to Amend Chapter 246  
of the Bel Air Town Code entitled Historic Preservation

WHEREAS, the Board of Town Commissioners has determined that historic preservation efforts are desirable and necessary to maintain the Town's traditional character; and

WHEREAS the State of Maryland authorizes the Town of Bel Air to create a Historic Preservation Commission to regulate designed historic properties; and

WHEREAS, the State of Maryland Land Use Article 8-308 outlines procedures for appeal of a decision by the Historic Preservation Commission; and

WHEREAS, the Town recognizes the need to modify the Town Code to be consistent with the Annotated Code of Maryland; and

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Bel Air Board of Town Commissioners that Chapter 246 of the Bel Air Town Code be amended to read as follows:

*The Bel Air Town Code is hereby amended to clarify the need for a quorum in Section 246-09, to read as follows:*

**§ 246-9 Appeals.**

**[Amended 10/23/2022 by Ord. No. 810-22]**

Any party aggrieved by a decision of the Historic Preservation Commission has the right to appeal to the ~~Bel Air Board of Appeals~~ **Circuit Court of Harford County** as authorized by The Land Use Article of the Annotated Code of Maryland. ~~An appeal to the Board of Appeals shall be taken in accordance with Article V the Town of Bel Air Development Regulations.~~ Appeals must be filed within 30 days from the date of the Historic Preservation Commission's

AND BE IT FURTHER ENACTED AND ORDAINED that this Ordinance shall take effect on the \_\_\_ day of \_\_\_\_\_, 2024.

INTRODUCTION:

PUBLIC HEARING:

ENACTMENT:

EFFECTIVE:

AYES:

NAYES:

ABSENT:

\_\_\_\_\_  
Paula Etting, Chair  
Board of Town Commissioners

\_\_\_\_\_  
Michael Krantz, Town Clerk

Ordinance No. xxx-24

An Ordinance to Amend the Code  
of the Town of Bel Air, Chapter 165 thereof entitled  
Zoning

WHEREAS, the Board of Town Commissioners has determined that historic preservation efforts are desirable and necessary to maintain the Town's traditional character; and

WHEREAS, the State of Maryland authorizes the Town of Bel Air to create a Historic Preservation Commission to regulate designed historic properties; and

WHEREAS, the State of Maryland Land Use Article 8-308 outlines procedures for appeal of a decision by the Historic Preservation Commission; and

WHEREAS, the Town recognizes the need to modify the Town Code to be consistent with the Annotated Code of Maryland; and

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Bel Air Board of Town Commissioners that Chapter 165 of the Bel Air Town Code be amended to read as follows:

Part 2. Zoning

Article II. Administration and Enforcement

§ 165-12 **Board of Appeals.**

The Board of Appeals, as established by the Bel Air Town Code, consists of five Town citizens and one alternate, appointed by the Board of Town Commissioners for a term of three years each. The Chair is elected annually by the Board of Appeals members. The Board's operations are limited to the independent review of specific land use questions. The Board is charged with the following powers and duties:

- A. Hear appeals from a decision or interpretation rendered by the Zoning Administrator.

- B. Grant or deny special exceptions pursuant to Article **XII** of this chapter.
- C. Grant or deny variances pursuant to Article **XII** of this chapter.
- D. Grant authorization to expand or extend nonconforming uses and/or structures.
- E. Hear appeals and requests for variances from the requirements of Chapter **210**, Floodplain Management, Article **VII**, Variances, of the Bel Air Town Code.
- ~~F. Hear appeals from a decision rendered by the Historic Preservation Commission in accordance with the Land Use Article of the Annotated Code of Maryland. [Amended 4-3-2017 by Ord. No. 780-17]~~

Article V. Historic Resource Conservation Regulations

§ 165-41 **Special regulations.**

- C. Appeal process.
  - (1) In the event that any party is aggrieved by a decision of the Board of Town Commissioners to designate a property as an historic site or part of an historic district, the party has the right to appeal to the Circuit Court of Harford County as authorized by the Land Use Article of the Annotated Code of Maryland. Such appeal shall be petitioned in the same manner as a rezoning decision as specified in Article **XIII**, § **165-101B(8)**, of this Part **2**. An appeal to the Circuit Court shall be taken in accordance with Rules 7-201 through 7-211 of Title 7, Chapter 200, of the Maryland Rules of Procedure. **[Amended 4-3-2017 by Ord. No. 780-17]**
  - (2) Following designation, should a party be aggrieved by a decision of the Historic Preservation Commission during its review process, the party may appeal to the **Circuit Court of Harford County Board of Appeals** in accordance with **Article XII, § 165-91**, of this Part **2** and the Land Use Article of the Annotated Code of Maryland. **[Amended 4-3-2017 by Ord. No. 780-17]**
  - (3) All appeals must be filed within 30 days of the Board of Town Commissioners or Historic Preservation Commission's decision.

Article XII. Appeals; Variances; Special Exceptions; Special Developments

§ 165-91 **Powers of Board of Appeals.**

- A. Administrative. The Board of Appeals shall have the power to hear and decide

appeals where it is alleged there is error in any order, requirements, decision, or determination made by an administrative official ~~and/or the Historic Preservation Commission~~ in the enforcement of the provisions of said Land Use Article and of the Town of Bel Air Development Regulations adopted pursuant thereto.  
**[Amended 4-3-2017 by Ord. No. 780-17]**

AND BE IT FURTHER ENACTED AND ORDAINED that this Ordinance shall take effect on the \_\_\_\_ day of \_\_\_\_\_, 2024.

INTRODUCTION:

PUBLIC HEARING:

ENACTMENT:

EFFECTIVE:

AYES:

NAYES:

ABSENT:

\_\_\_\_\_  
Paula Etting, Chair  
Board of Town Commissioners

\_\_\_\_\_  
Michael Krantz, Town Clerk

**ORD – provide for appeal of HPC decision to Circuit Court**

The proposed legislation would provide for the appeal of a decision of the Historic Preservation Commission to the Circuit Court of Harford County. The appeal process in the Town of Bel Air currently provides for all appeals to be sent to the Bel Air Board of Appeals.

- Havre de Grace HPC decisions are appealed to the HdG Board of Appeals
- Aberdeen does not have an HPC, only a Heritage Trust which does not appear to have enforcement powers
- Harford County HPC does not establish an appeal process for their decisions

Attached is an excerpt from Title 8 (Historic Preservation) of the Land Use Article of the State of Maryland Annotated Code which outlines the appeal process to be the same as the Planning Commission of the local jurisdiction. There are notes listed below Section 8-308 that create some confusion regarding the intent of the General Assembly. However, it appears the method could be interpreted to be the same as the Planning Commission.

***Potential Recommendation Options – No HPC decision has been appealed in the last couple decades and given the cooperative nature of the current HPC and the property owners, it is unlikely this process will be needed. Appeals to Board of Appeals cost \$300 plus hearing and advertising and will take 1 to two months depending on the specifics. Appeals to Court will cost less but will likely take longer and may require an attorney.***

REVISOR'S NOTE

This section is new language derived without substantive change from former Art. 66B, § 8.12(e).

Defined term: "Commission"

§ 8-101

§ 8-308. Appeal of decision.

Any person aggrieved by a decision of a commission may appeal the decision in the manner provided for an appeal from the decision of the planning commission of the local jurisdiction. (An. Code 1957, art. 66B, § 8.15; 2012, ch. 426, § 2.)

REVISOR'S NOTE

This section is new language derived without substantive change from former Art. 66B, § 8.15.

The phrase "planning commission" is substituted for the former phrase "zoning board or commission" for clarity. Cf. Casey v. Mayor of Rockville, 400 Md. 259, 315 (2007)(fn. 44); 67 Op. Att'y Gen'l 409 (1982).

The Land Use Article Review Committee notes, for consideration by the General Assembly, that under this section it is unclear: (1) whether an appeal is always available through the local board of appeals; (2) whether a local jurisdiction may divest an applicant of the

opportunity to appeal to the local board of appeals rather than seeking judicial review; and (3) who bears the costs of an action in direct judicial review compared with consideration by the board of appeals. The committee recommends establishing a clear appellate path for these matters, indicating whether or not there is a local option or requirement to proceed through the local board of appeal, or whether direct judicial review is always available.

Defined terms:

"Commission" § 8-101
"Local jurisdiction" § 1-101
"Person" § 1-101

"Zoning board or commission." — This section's reference to "zoning board or commission" is a reference to the commission established under this title. 67 Op. Att'y Gen. 409 (1982).

Historic preservation commission. — Although a building owner petitioned for judicial review, pursuant to Md. R. 7-201, of a decision from the Baltimore City Commission for Historical and Architectural Preservation to

place the owner's building on the Special List, a circuit court properly concluded the owner could proceed pursuant to Md. R. 7-401 because this section, the provision for appeals from a decision by a historic preservation commission, did not apply in Baltimore City; the owner was properly afforded judicial review pursuant to administrative mandamus, Md. R. 7-401. Balt. St. Parking Co., LLC v. Mayor & Balt., 194 Md. App. 569, 5 A.3d 695 (2010).

Subtitle 4. Miscellaneous Provisions.

§ 8-401. Conversion of overhead facilities.

(a) Local laws. — (1) Each local jurisdiction in which a district is designated may enact local laws requiring that:

- (i) utility companies relocate existing overhead lines and facilities underground within the defined part of the district or the entire district; and
(ii) if necessary, private owners who receive service from the relocated lines and facilities place any connection underground.

(2) A local law enacted under this section shall:

- (i) require that the estimated cost to property owners for work performed on private property be determined and made available to affected property owners;