

ORDINANCE 2022-_____

AN ORDINANCE RELATING TO APPEALS FROM DECISIONS OF THE DESIGN REVIEW BOARD FOR THE PURPOSE OF AMENDING SECTION 2-477 OF CHAPTER 2 ADMINISTRATION, ARTICLE V BOARDS, COMMISSIONS AND COMMITTEES, DIVISION 4 DESIGN REVIEW BOARD TO PROVIDE FOR REVIEW OF THE RECORD OF THE DESIGN REVIEW BOARD BY THE CITY COUNCIL AND CLARIFICATION OF NOTICE REQUIREMENTS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.

WHEREAS, in view of the increasing number of applications for review by the City of Naples Design Review Board and the need to provide for more clarity and efficient review of appeals of the City of Naples Design Review Board decisions by the City Council; and

WHEREAS, it is in the best interest of the public for the City Council to amend Section 2-477.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA:

Section 1. That Section 2-477 of the Code of Ordinances, City of Naples, is hereby amended to read as follows (with underlining indicating additions and ~~strike-through~~ indicating deletions):

Sec. 2-477. Appeals from decisions of board.

- (a) Any petitioner, owner of the property that is the subject of the petition, or person who should have received notice pursuant to Section 46-45 and who appeared before the board, is presumed to have standing to own property within 500 feet of the outer limits of the property that is the subject of the petition may appeal a final decision of the board to the city council.
- (b) An appeal to the city council may be taken perfected by filing a notice of appeal, in a form prescribed by the city clerk, within 15 days after the decision of the board was signed by the chair or vice-chair and filed with the city clerk. The notice of appeal shall set forth the specific errors committed by the board, with reference to the portion of the record where the error was committed. To perfect the appeal, within the prescribed 15 days the appellant(s) shall (1) complete and file the notice of appeal and (2) paying any a fee established by the city council for each decision that is appealed. If the notice of appeal is not has not been timely filed, the filed notice of appeal is incomplete or and the fee is has not been timely paid, within the 15-day period,

the city staff shall reject the appeal and notify the appellant(s) that the appeal as filed is deficient. The appellant(s) shall have 7 days from the date notice is sent by the city staff to correct the deficiency. If the deficiency is not cured within that 7 day period, the action of the board shall thereafter constitute final agency action by the board. If all deficiencies are cured within that 7 day period, the appeal shall be deemed to have been filed on the date all deficiencies are cured.

- (c) Unless waived, the matter The shall be heard by the city council shall hear the appeal at an available its next regularly scheduled meeting, occurring at least 30 days after the date of filing of the notice of appeal. However, or at a special meeting within 45 days after the date of filing the notice of appeal. the city council may schedule the matter at a special meeting Failure of the city council to adhere strictly to this schedule shall not constitute grounds for challenge of the city council's action. Any person who should have received notice pursuant to Section 46-45 of the board's prior action shall be mailed a notice of the date the appeal will be heard by the city council in accordance with Section 46-45.
- (d) The city council shall render a decision at the scheduled regular meeting immediately following the hearing of the appeal, unless the matter is continued consistent with established city council procedures. The city council's review shall be limited to a review of the record before the board and argument before city council regarding error by the appellant(s) and the property owner or petitioner before the board to determine:.
 - 1) Was the appellant(s) afforded procedural due process before the DRB?
 - 2) Did the DRB decision follow the essential requirements of law?
 - 3) Was there competent, substantial evidence presented to the DRB in support of its decision?
- (e) In acting on any appeal, the city council shall have the same authority as the board with regard to the petition. Any decision by the board may be The city council may affirm, deny, or remand the board's decision with directions. upheld, modified or reversed by the city council. The disposition of any appeal by the city council shall be by resolution and shall constitute final agency action.

Section 2. That if any word, phrase, clause, subsection, or section of this ordinance is for any reason held unconstitutional, invalid, or ineffective, the same will not affect the validity of any remaining portions of this ordinance. In such event, the pre-existing word, phrase, clause, subsection, or section, will be revived.

Section 3. That all sections or parts of sections of the Code of Ordinances, City of Naples, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

Section 4. This ordinance will take effect immediately upon adoption at second reading.

APPROVED AT FIRST READING THIS 1ST DAY OF JUNE, 2022.

PASSED AND ADOPTED AT SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA THIS _____ DAY OF _____, 2022.

Attest:

Patricia L. Rambosk, City Clerk

Teresa Heitmann, Mayor

Approved as to form and legality:

/s/ Nancy Stuparich
Nancy Stuparich, City Attorney

Date filed with City Clerk:_____