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[montgomerycountymd.gov/dps/](http://montgomerycountymd.gov/dps/)

## **Appeal Process for Well, On-Site Sewage Disposal, Subdivision, and Shared Facility Decisions**

The following section outlines the appeal rights for certain water and sewage decisions by the Maryland Department of the Environment (MDE) and the Montgomery County Department of Permitting Services (DPS).

### **Right to Appeal**

The Administrative Procedure Act (Title 10, Subtitle 2 of the State Government Article of the Annotated Code of Maryland) sets forth the procedures for appealing a final decision issued by MDE or an Approving Authority regarding the grant, denial, renewal suspension or amendment of a license, certificate, charter, permit or registration that is required by statute. The appeal is in the form of a contested case hearing with the Office of Administrative Hearings (OAH). In addition to the Administrative Procedure Act, both MDE and OAH have regulations that govern rules of procedure for contested case hearings (COMAR 26.01.01 et seq and COMAR 28.02.01 et seq).

### **Decisions That Can Be Appealed to MDE**

This appeal right applies to the following final decisions:

- Sewage disposal where public sewage systems are not available (Code of Maryland Regulations (COMAR) 26.04.02);
- Water supply and sewage systems in subdivisions (COMAR 26.04.03);
- Well construction (COMAR 26.04.04); and
- Water supply, sewage disposal and solid waste as part of shared facilities (COMAR 26.04.05).

### **Notice of Right to Appeal**

When MDE or DPS issues a final decision as referenced above, a written notice letter will be issued to the applicant seeking MDE or DPS approval. The notice will include appeal rights and required timeframes to file an appeal.

## **Requesting an Appeal**

- 1) It is recommended that you clarify the reason your permit application was not approved. You can contact the Well and Septic section for details (240) 777-0311. In some cases, basic modifications to your application may resolve the problem.
- 2) If there is not a simple resolution, you can request an informal exception request to the Well and Septic staff. We recommend that you provide drawings or information from your design professional or contractor since the potential solutions are often technical in nature.
- 3) If the property owner is not satisfied with the decision made after the informal exception review, an informal appeal may be made to the Director, Department of Permitting Services who is the Approving Authority. If this informal appeal is denied, the property owner can follow the formal appeal process.
- 4) Any person aggrieved by a final decision of the Approving Authority with respect to County requirements may have the right to have that decision reviewed by the Montgomery County Board of Appeals in accordance with the provisions of the Montgomery County Code Chapter 2, Section 2 and 2A. All such appeals must be made to the Clerk to the Board.
- 5) In the event a person is aggrieved by a final decision of the Approving Authority in a contested case with respect to State of Maryland requirements, they may request a contested case hearing appealing the final decision. The appeal may be filed with the MDE's Water and Science Management Administration Director, 1800 Washington Blvd, Baltimore, MD 21230, within thirty (30) calendar days after notification of the final decision by MDE or the Montgomery County Department of Permitting Services.
- 6) The written request for a contested case hearing must include a hearing request and attach a copy of the MDE or Approving Authority notice letter that is being appealed. The request should also include a brief statement of the factual and legal basis for the appeal. After receiving the request for a contested case hearing, MDE will transmit the request to the Office of Administrative Hearings (OAH).
- 7) Upon receipt of the filing, OAH will send written notices to the parties, confirming the filing and notice of relevant hearing dates. The hearing will be conducted as provided for in the Administrative Appeals Act, as well as OAH and MDE procedure regulations.

## **Loss of Appeal Rights**

If a request for a contested case hearing is not made within thirty (30) calendar days, the final decision of MDE or the Approving Authority is no longer appealable and the decision is considered final. The applicant must comply with any terms and conditions of the final decision.