

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 15.2-2311 of the Code of Virginia, relating to board of zoning appeals;*
3 *decisions of zoning administrator.*

4
5 Approved

[H 166]

6 **Be it enacted by the General Assembly of Virginia:**

7 **1. That § 15.2-2311 of the Code of Virginia is amended and reenacted as follows:**

8 § 15.2-2311. Appeals to board.

9 A. An appeal to the board may be taken by any person aggrieved or by any officer, department,
10 board or bureau of the locality affected by any decision of the zoning administrator or from any order,
11 requirement, decision or determination made by any other administrative officer in the administration or
12 enforcement of this article, any ordinance adopted pursuant to this article, or any modification of zoning
13 requirements pursuant to § 15.2-2286. Notwithstanding any charter provision to the contrary, any written
14 notice of a zoning violation or a written order of the zoning administrator dated on or after July 1,
15 1993, shall include a statement informing the recipient that he may have a right to appeal the notice of a
16 zoning violation or a written order within 30 days in accordance with this section, and that the decision
17 shall be final and unappealable if not appealed within 30 days. The zoning violation or written order
18 shall include the applicable appeal fee and a reference to where additional information may be obtained
19 regarding the filing of an appeal. The appeal period shall not commence until the statement is given. A
20 written notice of a zoning violation or a written order of the zoning administrator that includes such
21 statement sent by registered or certified mail to, or posted at, the last known address of the property
22 owner as shown on the current real estate tax assessment books or current real estate tax assessment
23 records shall be deemed sufficient notice to the property owner and shall satisfy the notice requirements
24 of this section. The appeal shall be taken within 30 days after the decision appealed from by filing with
25 the zoning administrator, and with the board, a notice of appeal specifying the grounds thereof. The
26 zoning administrator shall forthwith transmit to the board all the papers constituting the record upon
27 which the action appealed from was taken. The fee for filing an appeal shall not exceed the costs of
28 advertising the appeal for public hearing and reasonable costs. A decision by the board on an appeal
29 taken pursuant to this section shall be binding upon the owner of the property which is the subject of
30 such appeal only if the owner of such property has been provided notice of the zoning violation or
31 written order of the zoning administrator in accordance with this section. The owner's actual notice of
32 such notice of zoning violation or written order or active participation in the appeal hearing shall waive
33 the owner's right to challenge the validity of the board's decision due to failure of the owner to receive
34 the notice of zoning violation or written order. For jurisdictions that impose civil penalties for violations
35 of the zoning ordinance, any such civil penalty shall not accrue or be assessed during the pendency of
36 the 30-day appeal period.

37 B. An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning
38 administrator certifies to the board that by reason of facts stated in the certificate a stay would in his
39 opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise
40 than by a restraining order granted by the board or by a court of record, on application and on notice to
41 the zoning administrator and for good cause shown.

42 C. In no event shall a written order, requirement, decision or determination made by the zoning
43 administrator or other administrative officer be subject to change, modification or reversal by any zoning
44 administrator or other administrative officer after 60 days have elapsed from the date of the written
45 order, requirement, decision or determination where the person aggrieved has materially changed his
46 position in good faith reliance on the action of the zoning administrator or other administrative officer
47 unless it is proven that such written order, requirement, decision or determination was obtained through
48 malfeasance of the zoning administrator or other administrative officer or through fraud. The 60-day
49 limitation period shall not apply in any case where, with the concurrence of the attorney for the
50 governing body, modification is required to correct clerical or other nondiscretionary errors.

ENROLLED

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