

**BOARD OF SUPERVISORS
COUNTY OF NEW KENT
VIRGINIA**

O-07-13

At the regular meeting of the Board of Supervisors of the County of New Kent in the Boardroom of the Administration Building in New Kent, Virginia, on the 15th day of October, 2013:

Present:	Vote:
C. Thomas Tiller, Jr.	Aye
James H. Burrell	Aye
Ron Stiers	Aye
Thomas W. Evelyn	Aye
W. R. Davis, Jr.	Aye

Motion was made by Mr. Evelyn, which carried 5:0, to adopt the following ordinance:

**AN ORDINANCE AMENDING CHAPTER 98, ARTICLE XXVI,
BOARD OF ZONING APPEALS, SECTION 98-1023, APPEALS,
WITH CHANGES THAT RESULTED FROM THE
2012 GENERAL ASSEMBLY SESSION**

WHEREAS, the General Assembly has enacted certain changes to the Code of Virginia which require amendments to the County Code of Ordinances relating to the procedures of the Board of Zoning Appeals and Zoning Administrator; and

WHEREAS, pursuant to Virginia Code Section 15.2-2286, the New Kent County Board of Supervisors has authority to amend Chapter 98, Article XXVI of the County Code; and

WHEREAS, the Board finds that it is in the interest of the County and its citizens to amend the Board of Zoning Appeals provisions pursuant to the changes enacted to Virginia Code Section 15.2-2311; and

WHEREAS, a public hearing has been held and recommendation of approval has been made by the Planning Commission;

NOW, THEREFORE BE IT RESOLVED, on this 15th day of October, 2013, the New Kent County Board of Supervisors hereby amends Chapter 98, Zoning, Article XXVI, Board of Zoning Appeals, Sec. 98-1023, Appeals, as set forth below:

Sec. 98-1023. - Appeals.

(a) An appeal to the board of zoning appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the county affected by any decision of the zoning administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of Code of Virginia, § 15.2-2280 et seq., or this chapter. Any written notice of a zoning violation or a written order of the zoning administrator, dated on or after July 1, 1993, shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within 30 days in accordance with this section, and that the decision shall be final and unappealable if not appealed within 30 days. The appeal period shall not commence until the statement is given. The appeal shall be taken within 30 days after the decision appealed from by filing with the zoning administrator, and with the board of zoning appeals, a notice of appeal specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board of zoning appeals all the papers constituting the record upon which the action appealed from was taken.

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

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

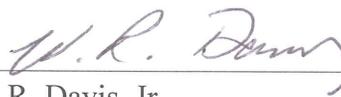
(Code 1999, § 9-331(a))

State law reference— Similar provisions, Code of Virginia, § 15.2-2311.

This Ordinance takes effect upon adoption.



Rodney A. Hathaway
County Administrator



W. R. Davis, Jr.
Chairman