

ORDINANCE-3823

AN ORDINANCE TO AMEND SECTION 106
OF THE CITY ZONING ORDINANCE
PERTAINING TO APPEAL PERIOD FOR
NOTICE OF VIOLATION

Section Amended: § 106 of the City Zoning
Ordinance

WHEREAS, the public necessity, convenience, general welfare, and good zoning
practice so require;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VIRGINIA
BEACH, VIRGINIA:

That Section 106 of the City Zoning Ordinance is hereby amended and
reordained to read as follows:

Sec. 106. Appeals and variances.

- (a) The board of zoning appeals shall hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this ordinance. An appeal shall be filed with the zoning administrator, and include the grounds of appeal, within thirty (30) days of the date of the decision appealed, unless the notice of violation involves (a) the storage or disposal of nonagricultural excavation material, waste, and debris, (b) temporary or seasonal commercial uses, (c) parking of commercial trucks in residential zoning districts, or (d) similar short-term recurring violations, in which case the appeal period is ten (10) days from the date of the notice of violation. All decisions not timely appealed shall be final and unappealable. In addition thereto, the board shall have such other powers and duties as are set forth in Code of Virginia, § 15.2-2309; provided, however, that the board shall have no authority to hear and decide applications for conditional use permits, and provided further, that written notice as prescribed in Code of Virginia, § 15.2-2204 shall be given at least fifteen (15) days prior to the hearing before the board. Notice shall be published twice in a newspaper having general circulation in the City. The first notice shall be published no more than twenty-eight (28) days before the meeting and the second notice appearing no less than seven (7) days before the date of the meeting. The cost of the public notices required by Section 15.2-2204 of the Code of Virginia shall be charged to the applicant.
- (b) The membership, organization and procedures of the board of zoning appeals shall be as set forth in Code of Virginia, §§ 15.2-2308 through 15.2-2314, as amended. In the event the board denies an application for a variance, substantially the same

44 application shall not be considered by the board for a period of one (1) year from
45 the date of denial.
46

- 47 (c) Every application concerning a single-family residence, semi-detached residence or
48 duplex to the board of zoning appeals shall be accompanied by a fee of four
49 hundred dollars (\$400.00), and all other applications shall be accompanied by a fee
50 of five hundred dollars (\$500.00). Such fee shall include all costs of notification and
51 advertising. Each lot upon which a variance is requested shall be the subject of a
52 separate application and a separate fee; provided, however, that variances from the
53 setback and landscaping provisions of section 201(e)(1), pertaining to fences and
54 walls, may be the subject of a single application and fee where the following
55 conditions are met:
56

57 (1) The lots upon which the variance is requested are contiguous lots within a
58 single subdivision block, as shown on the recorded plat of the subdivision in
59 which the lots are located;
60

61 (2) The fence or fences which are the subject of the variance are located wholly
62 upon property owned by a bona fide homeowners' association created by legal
63 instrument recorded in the office of the clerk of the circuit court, or upon which
64 there is a recorded perpetual easement allowing such homeowners'
65 association, or the members thereof, to construct and maintain a fence upon
66 such property;
67

68 (3) Such fence or fences are owned by the homeowners' association; and
69

70 (4) The individual signing the application certifies to the zoning administrator, in
71 writing, that he or she is vested with the authority to act on behalf of the
72 homeowners' association in the matter and that such association has
73 authorized, in the manner prescribed by its by-laws or other instrument, the
74 filing of the application.
75

- 76 (d) Any decision of the board shall be binding upon the owner of the property which is
77 the subject of such appeal only if the owner of such property has been provided
78 notice in accordance with section 103(l). Actual notice by the owner or active
79 participation in the decision of the board shall waive the owner's right to challenge
80 the validity of the board's decision because of the failure of the owner to receive
81 notice.

Adopted by the Council of the City of Virginia Beach, Virginia, on the 12th day of
August, 2025.