



**PUBLIC NOTICE  
WILLIAMSBURG CITY COUNCIL**

The Williamsburg City Council will hold a public hearing on Thursday, November 10, 2011, 2:00 p.m. in the Stryker Building, 412 North Boundary Street, to consider the following:

**PCR #11-018, -019:** Zoning Ordinance Housekeeping Amendments [amend Board of Zoning Appeals voting procedures [Sec. 21-96(b)]; and amend Conditional Zoning regulations regarding cash proffers for residential construction [Sec. 21-77(a)].

Additional information is available at [www.williamsburgva.gov/Index.aspx?page=1036](http://www.williamsburgva.gov/Index.aspx?page=1036) or at the Planning Department [(757) 220-6130], 401 Lafayette Street. Interested citizens are invited to attend this hearing and present their comments to the Council.

If you are disabled and need accommodation in order to participate in the public hearing, please call the City Manager's office at (757) 220-6100, (TTY) 220-6108, no later than 12:00 noon, Thursday, November 3, 2011.

Donna F. Scott  
City Council Clerk



CITY OF WILLIAMSBURG  
MEMORANDUM

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**TO: Planning Commission**

**DATE: October 21, 2011**

**SUBJECT: Zoning Ordinance Housekeeping Amendments**

Two Zoning Ordinance text amendments are proposed to incorporate changes to the State Code that govern the City's Zoning Ordinance. These are mandatory changes that must be made to bring the Zoning Ordinance into agreement with the State Code.

**PCR #11-018 – Amend Board of Zoning Appeals procedures [Sec. 21-96(b)]**

The Code of Virginia has been amended to require a majority of the entire board to approve matters governed by Code of Virginia §15.2-2312. This section is shown below:

**§15.2-2312. Procedure on appeal.**

The board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof as well as due notice to the parties in interest and make its decision within ninety days of the filing of the application or appeal. In exercising its powers the board may reverse or affirm, wholly or partly, or may modify, an order, requirement, decision or determination appealed from. **The concurring vote of a majority of the membership of the board shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under the ordinance or to effect any variance from the ordinance.** The board shall keep minutes of its proceedings and other official actions which shall be filed in the office of the board and shall be public records. The chairman of the board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

The City's Zoning Ordinance needs to be amended to incorporate this section into the Board of Zoning Appeals section of the Zoning Ordinance [Sec. 21-96(b)], as shown in the attached ordinance.

**PCR #11-019 – Amend Conditional Zoning regulations [Sec. 21-77(a)]**

The Code of Virginia has been amended to mandate that localities may only collect cash proffers for residential construction on a per-dwelling unit or per-home basis after completion of the final inspection and prior to the time of the issuance of any certificate

of occupancy for the subject property [§15.2-2303.1:1]. The amendment further provides for expiration of such limitation on July 1, 2015.

The City's Zoning Ordinance needs to be amended to incorporate these provisions into the Conditional Zoning section of the Zoning Ordinance [Sec. 21-77(a)], as shown in the attached ordinance.

### **STAFF RECOMMENDATION**

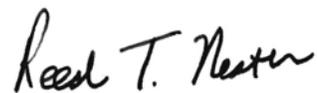
Staff recommends that Planning Commission recommend to City Council approval of the text amendments for PCR #11-018 and #11-019, as detailed in the attached ordinances.

### **PLANNING COMMISSION RECOMMENDATION**

Planning Commission held a public hearing on these changes on October 19, and recommended approval of the text amendments for PCR #11-018 and #11-019, as detailed in the attached ordinances, by a vote of 6-0.

### **CITY COUNCIL PUBLIC HEARING**

The City Council public hearing is scheduled for November 10 at 2:00 p.m. in the Council Chamber at the Stryker Building, 412 North Boundary Street.



Reed T. Nester, AICP  
Planning Director

**ORDINANCE NO. 11-\_\_\_\_**  
**PROPOSED ORDINANCE NO. 11-\_\_\_\_**

**AN ORDINANCE AMENDING CHAPTER 21, ZONING, ARTICLE II,  
ADMINISTRATION, SECTION 21-96, PERTAINING TO VOTING  
PROCEDURES FOR THE BOARD OF ZONING APPEALS  
(PCR #11-018)**

**WHEREAS**, the City of Williamsburg has created a board of zoning appeals pursuant to Code of Virginia (1950), as amended, §15.2-2308; and

**WHEREAS**, the City Code currently provides that the board of zoning appeals may take all actions by a majority of members who are present and voting; and

**WHEREAS**, the Code of Virginia has been amended to require a majority of the entire board to approve matters governed by Code of Virginia §15.2-2312.

**NOW, THEREFORE, BE IT ORDAINED**, that Section 21-96 of Chapter 21 of the Williamsburg Code is hereby AMENDED to read as follows:

**Sec. 21-96. Composition, appointment and organization.**

(a) There shall be created a board of zoning appeals, which shall consist of five residents of the city, appointed by the city council (the Charter, chapter IX, section 62). Their terms of office shall be five years each except that original appointments shall be made for such terms that the term of one member shall expire each year. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members may be reappointed to succeed themselves. Members of the board shall hold no other public office in the city except that one may be a member of the planning commission. A member whose term expires shall continue to serve until his successor is appointed and qualifies.

(b) With the exception of its secretary, the board shall elect from its membership a chairperson and vice-chairperson, who shall serve annual terms and may succeed themselves. The board may elect as its secretary either one of its members or a qualified individual who is not a member of the board. A secretary who is not a member of the board shall not be entitled to vote on matters before the board. For the conduct of any hearing, a quorum shall be not less than a majority of all the members of the board. The board may make, alter and rescind rules and forms for its procedures, consistent with ordinances of the city and general laws of the commonwealth. The concurring vote of a majority of the membership of the board shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under the ordinance or to effect any variance from the ordinance. On all other matters, no action of the board shall be valid unless authorized by a majority vote of those present and voting. ~~No action of the board shall be valid unless authorized by a majority vote of those present and voting.~~ The board shall keep a full public record of its proceedings and shall submit a report of its activities to the city council at least once a year.

(c) Within the limits of funds appropriated by the city council, the board may employ or contract for secretaries, clerks, legal consultants and other technical and clerical services. Members of the board may receive such compensation as may be authorized by the city council.

This ordinance shall become effective on the tenth day following its passage.

Adopted: \_\_\_\_\_

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Clyde A. Haulman, Mayor

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Donna Scott, City Council Clerk

[PC\PCR\2011\11-018M01]

**ORDINANCE #11-\_\_**  
**PROPOSED ORDINANCE #11-\_\_**

**AN ORDINANCE TO AMEND SECTION 21-77 (a) OF ARTICLE IV,  
DIVISION 4 OF CHAPTER 21 OF THE WILLIAMSBURG CODE  
PERTAINING TO CONDITIONAL ZONING  
(PCR #11-019)**

**WHEREAS**, Section 21-77(a) of Article IV, Division 4 of the Williamsburg Code sets forth procedures as allowed by §§ 15.2-2296, et. seq. of the Virginia Code; and

**WHEREAS**, Senate Bills 996 and 1204 amended Virginia Code § 15.2-2303.1:1 to mandate that cash payments proffered for residential construction on a per-dwelling unit or per-home basis can only be collected or accepted after completion of the final inspection and prior to issuance of any certificate of occupant for such unit or dwelling; and

**WHEREAS**, it is necessary to amend Williamsburg's zoning ordinance accordingly;

**NOW, THEREFORE, BE IT ORDAINED**, that Section 21-77(a) of Article IV, Division 4 of Chapter 21 of the Williamsburg Code are hereby AMENDED to read as follows:

**Sec. 21-77. Proffer of conditions.**

(a) Prior to a public hearing before the city council, in accordance with the provisions of division 3, Amendments, of this article, the owner or owners of property sought to be rezoned under the provisions of this chapter may voluntarily proffer in writing reasonable conditions, in addition to the regulations provided for in the zoning district or zone sought in the rezoning petition. Said conditions shall be proffered as a part of the requested rezoning or amendment to the official zoning map. Conditions so proffered are subject to the following limitations:

- (1) The rezoning itself must give rise for the need for the conditions;
- (2) Such conditions shall have a reasonable relation to the rezoning;
- (3) All such conditions shall be in conformity with the city's comprehensive plan;
- (4) No proffer shall be accepted by the city unless it has adopted a capital improvement program pursuant to Virginia Code, § 15.2-2239. In the event proffered conditions include the dedication of real property or payment of cash, such property shall not transfer and such payment of cash shall not be made until the facilities for which such property is dedicated or cash is tendered are included in the capital improvement program; provided, that nothing herein shall prevent the city from accepting proffered conditions which are not normally included in such capital improvement program;
- (5) If proffered conditions include the dedication of real property or the payment of cash, the proffered conditions shall provide for the disposition of such property or cash payment in the event the property or cash payment is not used for the purpose for which proffered;

(6) Reasonable conditions shall not include, however, conditions that impose upon the applicant the requirement to create a property owners' association under Chapter 26 (§ 55-508 et seq.) of Title 55, Code of Virginia, which includes an express further condition that members of a property association pay an assessment for the maintenance of public facilities owned in fee by a public entity, including open space, parks, schools, fire departments, and other public facilities not otherwise provided for in § 15.2-2241, Code of Virginia; however, such facilities shall not include sidewalks, special street signs or markers, or special street lighting in public rights-of-way not maintained by the city.

(7) Payments of cash proffered on a per-dwelling unit or per-home basis for residential construction shall be collected or accepted only after completion of the final inspection and prior to the time of the issuance of any certificate of occupancy for the subject property. In accordance with Virginia Code § 15.2-2303.1:1 C, this paragraph (7) shall expire on July 1, 2015.

This ordinance shall become effective on the tenth day following its passage.

Adopted: \_\_\_\_\_

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Clyde A. Haulman, Mayor

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Donna Scott, City Council Clerk