



CITY OF RICHMOND

Department of Planning & Development Review *Staff Report*

Ord. No 2020-171. To amend and reordain City Code §§ 30-402.2, concerning permitted accessory uses and structures, 30-413.15, concerning yards, 30-419.2, concerning permitted principal uses, 30-419.3, concerning permitted principal uses on corner lots, 30-419.4, concerning permitted accessory uses and structures, 30-420.5, concerning yards, 30-424.5, concerning yards, 30-426.5, concerning yards, 30-428.6, concerning yards, 30-430.5, concerning yards, 30-442.1, concerning permitted principal and accessory uses, 30-442.4, concerning yards, 30-444.2, concerning permitted principal and accessory uses, 30-444.4, concerning yards, 30-446.4, concerning yards, 30-447.2, concerning permitted principal and accessory uses, 30-610.3, concerning alley frontage, 30-620.1, concerning lots and lot areas, 30-630.1, concerning yards, 30-630.4, concerning side yards, 30-630.9, concerning permitted projections and encroachments in yards and courts, 30-680.1, concerning location of accessory buildings, 30-800.2, concerning extension or expansion, 30-810.1, concerning alterations to buildings, 30-940.3, concerning the Urban Design Committee, and 30-1080, concerning unlawful conduct and penalties; to amend ch. 30, art. IV, div. 2, 3, 4, 5, and 6 of the City Code by adding therein new §§ 30-402.8, 30-404.8, 30-406.8, 30-408.8, and 30-410.8, concerning driveways from streets; to amend ch. 30, art. VI, div. 7 of the City Code by adding therein a new § 30-660.1, concerning standards for location of refuse areas; to amend ch. 30, art. X, div. 4 of the City Code by adding therein a new § 30-1030.8, concerning expiration of approval of plans of development, and to amend ch. 30, art. XII of the City Code by adding therein new §§ 30-1220.94, 30-1220.110:1, 30-1220.110:2, and 30-1220.110:3, concerning certain definitions..

To. City Planning Commission
From. Department of Planning and Development Review
Date. August 17, 2020

PETITIONER

City of Richmond
900 East Broad Street
Richmond, VA 23219

LOCATION

The text amendments will make minor changes to districts across the city.

PURPOSE

To amend the official zoning text for the purposes of making minor changes to various sections with the goals of: aligning with State and City code; aligning with changing conditions; and eliminating unintentional complications to development. **Twenty-two of these changes to the Zoning Ordinance are aimed at reducing the number of Special Use Permits (SUPs) and Board of Zoning Appeals (BZA) cases, removing barriers to residential development in Richmond, and saving applicant and staff time.**

SUMMARY & RECOMMENDATION

The City of Richmond Zoning Ordinance is a dynamic document that changes in order to reflect current conditions. It is necessarily consistent with State Code and other sections of City Code, and should accomplish its goal of implementing planning principles. These amendments help correct and update the Zoning Ordinance.

Most of the changes to the Zoning Ordinance contained in this Ordinance are aimed at eliminating unnecessary complications to development especially for small projects on infill lots in established neighborhoods. Reducing the number of Special Use Permits and Board of Zoning Appeals cases will help these projects get through the development process much more quickly. Some of the other changes bring the Zoning Ordinance in line with State Code, such as amending the Penalties for Violation of the Zoning Ordinance, or help the Zoning Ordinance align with other sections of City Code. Some, such as the addition of solar energy systems, contemporize the Zoning Ordinance while also eliminating the need for some BZA cases and SUPs.

Staff supports adoption of the Ordinance.

BACKGROUND ON SPECIFIC CHANGES

These changes will bring the Richmond City Zoning Ordinance in alignment with the Code of Virginia.

Section 30-1080. Penalties for Violations of the Zoning Ordinance

The Code of Virginia was amended by the General Assembly in 2018 to make some minor formatting changes and to add additional penalties for successive failures to comply with Zoning Ordinance requirements. These amendments to the Richmond City's Zoning Ordinance bring it into alignment with State Code, including previous amendments which Richmond's Ordinance had not been updated to reflect.

The 2018 General Assembly adopted changes to the Code of Virginia to provide for an increase in the penalty for criminal violations of the Zoning Ordinance. Previous code provisions were a misdemeanor offense punishable by a fine of not less than \$10 or more than \$1,000 and provided that a failure to comply for any 10-day period after the Court-established timeline, constituted a separate offense with a fine of not less than \$100 or more than \$1,500.

The 2018 General Assembly action leaves in place the first "non-compliance" penalty of \$1,000; establishes a second level for the time period within 10 days of the Court-ordered timeframe with a maximum penalty of \$1,500; and now has created an additional "non-compliance" penalty with a maximum fine of \$2,000 for each 10-day period after the initial 10 days.

The current Code of Virginia also outlines specific penalties for convictions resulting from violations of provisions regulating the number of unrelated persons in single-family residential dwellings. The initial violation will be punished by a fine of up to \$2,000. Failure to abate the violation within that time period shall be punishable by a fine of up to \$5,000, and any failure after that time shall constitute a separate misdemeanor offense for each successive 10-day period punishable by a fine of up to \$7,500. The Code makes an exception for situations in which a legal action is pending against a tenant, in accordance with Chapter 13 or Chapter 13.2 of Title 55, as applicable. A conviction resulting from a violation of provisions regulating the number of unrelated persons in single-family residential dwellings shall not be punishable by a jail term.

This change will bring the Richmond City Zoning Ordinance in alignment with other sections of Richmond City Code.

Section 30-402.2. Number of Chickens Permitted in Residential Districts

City Council Ordinance 2018-294 amended City Code § 4-92, concerning the keeping and running at large of hogs, pigs and fowl, and §4-124, concerning permit requirements for chickens, and §4-126, concerning requirements for the area in which female chickens are maintained, for the purpose of increasing the number of female chickens permitted in the City from four to six. However, the relevant section in the Zoning Ordinance was not changed, so that currently zoning only allows four female chickens. This amendment brings the number of chickens allowed by zoning into alignment with other relevant sections of City Code.

These changes will make these zoning districts consistent with other zoning districts.

Sections 30-402.8, 30-404.8, 30-406.8, 30-408.8, and 30-410.8. New Residential Driveways from Streets in the R-1 through R-5 Districts.

Richmond's older neighborhoods, many of which were originally street-car suburbs, are among the most walkable, human-scale places in the city. As these neighborhoods experience rapid redevelopment, new driveways from streets have been built to cut across sidewalks, one by one making the neighborhood less safe to walk. These amendments require that if alley access is available for off-street parking, that parking be located off the alley and not create a new curb cut from the street.

Section 30-413.15. Front Yard Setbacks in the R-8 Urban Residential District

Staff has found that this front yard requirement is too rigorous. As it is currently written, a survey of every property on the block would be required to determine compliance. This has been found to create an undue and unintended financial burden on the property owner or developer.

These changes will reduce barriers to small development projects.

Section 30-419. R-63 Multi-Family Urban Residential District.

- **30-419.2(3)**Two-Family Use Requirements. Currently, three or more single-family attached dwelling units require a Plan of Development, while three or more two-family attached dwellings do not. This alleviates an arbitrary discrepancy in a district that allows single- and two-family units.
- **30-419.2(5)**. The R-63 district requires buildings to be at least two stories tall, but any apartments above were subject to multi-family requirements, meaning that they required 4,000 SF of lot area for one unit. This prohibited by-right apartments above most corner uses. This amendment removes that barrier and permits one unit by-right no matter the lot area, and adds minimum lot area requirements for two and three units.

- **Section 30-419.3(6) and (7).** Removes video rental stores and adds retail stores offices, to better reflect the current realities and allow more opportunities for small businesses to open by-right.
- **Section 30-419.4(3).** Specifying that an accessory dwelling unit was permitted by-right for a single-family detached dwelling creates a disparity between single-family detached and single-family attached in the same zoning district. The amendment alleviates that disparity and creates more clarity, saving applicant and staff time.

Section 30-420.5. R-73 Multi-Family Residential District

Adding the phrase “newly-constructed” in reference to side and rear yards alleviates an unnecessary hardship on existing buildings, encouraging conversion and adaptive reuse.

Section 30-424.5. RO-1 Residential-Office District

As above, adding the phrase “newly-constructed” in reference to side and rear yards alleviates an unnecessary hardship on existing buildings encouraging conversion and adaptive reuse.

Section 30-426.5. RO-2 Residential-Office District

As above, adding the phrase “newly-constructed” in reference to side and rear yards alleviates an unnecessary hardship on existing buildings encouraging conversion and adaptive reuse.

Section 30-428.6. RO-3 Residential-Office District

As above, adding the phrase “newly-constructed” in reference to side and rear yards alleviates an unnecessary hardship on existing buildings encouraging conversion and adaptive reuse.

Section 30-430.5. HO Hotel-Office District

As above, adding the phrase “newly-constructed” in reference to side and rear yards alleviates an unnecessary hardship on existing buildings encouraging conversion and adaptive reuse.

Section 30-442. B-5 Central Business District.

- **30-442.1(7).** Removes the map image of street-oriented commercial designations, and refers to the Official Zoning Map. Having two maps creates confusion and would necessitate changing this map in each district every time the street-oriented commercial designations are updated in any area of the city. The Official Zoning Map legally supersedes this map in the Zoning Ordinance so this does not represent a change in legal street-oriented commercial designations and is an amendment for the sake of clarity.
- **30-442.4(1).** Removes the requirements for a building to match the setbacks of adjacent buildings, which was often arbitrary and caused a developer to apply for a Special Use Permit in order to build to the street. As Richmond rebuilds to become a more pedestrian-oriented,

human-scaled city, it is important to remove barriers to development that help accomplish that goal.

Section 30-444.2. B-6 Mixed-Use Business District.

- **30-444.2(7).** Removes the map image for the same reasons stated above.
- **30-444.4(1).** Removes the same setback requirements stated above.

Section 30-446.4. B-7 Mixed-Use Business District. Makes the same changes to the setback requirements as stated above in the B-5 and B-6 districts.

Section 30-447.2. RF-1 Riverfront District. Removes the street-oriented commercial map image for the same reasons as stated above, hyphenates “street-oriented” to be consistent with the rest of the Zoning Ordinance.

Section 30-447.11. RF-2 Riverfront District. Removes the street-oriented commercial map image for the same reasons as stated above, hyphenates “street-oriented” to be consistent with the rest of the Zoning Ordinance.

Section 30-610.3. Alley frontage for accessory buildings, structures or uses.

The current ordinance is unclear as to the requirements for accessory structures that only have access to an alley, including whether or not they can house dwelling units, which creates problems with access and safety. This amendment makes the requirements more clear.

Section 30-620.1. Lots recorded prior to effective date of requirements.

- **30-620.1(b).** Richmond has a number of neighborhoods where the zoning does not match the existing development pattern, which creates hardships for building new buildings. That is somewhat alleviated by this section, which makes exceptions for lots recorded before the effective date of the ordinance, referred to as “legal lots of record.” This change adds unit width to the lists of exceptions, because the R-6 district (and only this district) dictates a minimum *unit* width for attached dwellings, which inequitably prohibits the development of some single- or two-family attached houses on adjacent lots recorded prior to the effective date of the ordinance. In a city with a growing population and a need for more housing options, especially in dense, transit-adjacent neighborhoods, it makes sense to remove unnecessary barriers to the creation of this housing.
- **30-620.1(e).** Adds a new clause which codifies an administrative zoning interpretation that no 10’ street side yard is required for lots of substandard width existing prior to the effective date.

Section 30-630.1. Required yards on lots having more than one street frontage.

- **30-630.1(a) and 30-630.(a)(3).** Removes another small barrier to development of single- and two-family dwellings, a required side yard, in the densest residential districts.
- **30-630.1(c).** Helps clarify the determination of a front yard and the depth of a rear yard on through lots (lots which have a street on either end). This is a common issue, as Richmond has many through lots which back on to what functions as an alley but is technically a street.
- **30-630.1(d).** Adds a clause which specifies that on through lots in residential districts with front yard maximums, the front yard maximum will only apply on the principal street frontage. As currently written, it is either impossible or impractical to meet.

Section 30-630.4. Side yards for attached dwellings. Removes the phrase “a series of”, which created ambiguity, as the word “series” is not as yet defined in the Zoning Ordinance and so was open to interpretation.

Section 30-630.9. Permitted projections and encroachments in yards and courts.

- **30-630.9(2).** This amendment makes it clear that 6 ½ fences are permitted in side or rear yards only.
- **30-630.9(c).** This section has a clause that references signs, post, poles, and yard ornaments and accessories, along with the location of facilities for trash and refuse. This amendment removes the latter and places it in Section 30-660.1, with other specifications for trash and refuse.
- **30-630.9(k).** Adds a clause that permits building-mounted solar energy systems. Though the Zoning Ordinance does not specifically mention solar energy systems as currently written, they are considered to be an accessory use to a residential dwelling. Like all accessory uses, they must adhere to the setback requirements of the zoning district. However, issues arise when the house itself does not meet the setback requirements, as many houses in Richmond were built before the current Zoning Ordinance was applied. This new clause allows solar panels to be placed on a house with non-conforming setbacks, as long as they do not exceed 12 inches from the surface of the roof or extend past the existing roof. This amendment contemporizes the Zoning Ordinance and eliminates the need for a Special Use Permit to install solar panels.

Section 30-660.1. Standards for location of refuse areas.

This is a complement to the change in 30-630.9(c), which creates a section for locating refuse areas.

This amendment brings the Zoning Ordinance in alignment with State Code.

Section 30-1030.5. Expiration of Approval for Plans of Development.

Currently Plans of Development are the only City approval that does not expire. This amendment adds a clause to Section 30-1030 stating that if no building permit is applied for within 5 years or if the building

permit terminates, the Plan of Development becomes void. This will ensure that all Plans of Development are in line with contemporary best practices and State Code regarding subdivisions and site plans.

This amendment brings the Zoning Ordinance into alignment with current conditions.

Section 30-680.1(d). Accessory buildings, Location within required yards.

Specifies that an accessory building or structure may only be located in front yards if 100' or greater from the nearest street line.

These amendments contemporize the Zoning Ordinance by reducing barriers to solar energy systems.

Section 30-800.2. Extension or expansion.

Adds solar energy systems to allowed extension or expansion of non-conforming uses.

Section 30-810.1. Alterations to buildings or structures having nonconforming features.

Adds solar energy systems to the list of building features which are not deemed to increase the degree or extent of a non-conforming building. (In other words, solar energy systems can now be added to a non-conforming building without the building becoming non-conforming.)

Section 30-940.3. Composition of the Urban Design Committee.

The Urban Design Committee (UDC) has voted to change their membership composition. This change brings the Zoning Ordinance language in line with the by-laws of that Committee.

The changes to the composition of the UDC consist of modifying membership requirements for four (4) existing positions and adding one (1) new position. The modifications of the existing positions consist of providing a requirement for: one position to be an urban designer or urban planner; one position to be a member of the faculty of a design or arts division of a local college or university; one position to be a member of a community-focused organization or business; and one position to be a registered landscape architect. The new position would provide a requirement for one position to be a member having demonstrated arboriculture and/or forestry expertise or a member of the urban forestry commission.

Section 30-1220. Definitions.

These edits add definitions for *solar energy system*, *building-mounted solar energy system*, *free-mounted solar energy system*, and *series*, which have not been previously defined in the Zoning Ordinance.

The edits also amend the definition of *story*, ensuring that each successive story of a building is consistent with a traditional understanding of the term, and must be of usable space and at least 80% of the story below it.

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