

# ARTICLE 1

## ADMINISTRATION AND ENFORCEMENT

### Section 1.01 Intent and Purpose.

This Ordinance has been prepared and adopted for the purpose of providing standards and regulations for land development, for the use of land and buildings, and for all other purposes described in Section 1 of the City and Village Zoning Act (P.A. 207 of 1921, as amended). This Ordinance is based on the City of Richmond Master Plan, and is intended to carry out the objectives of that Plan.

### Section 1.02 Scope.

The standards and regulations of this Ordinance shall apply to all land, buildings, structures, uses, and land development projects established or commenced after the effective date of this Ordinance. Accordingly, no lots or parcels may be created or altered, nor any land use be established, changed or commenced, nor any building or structure constructed, altered, or extended, except in compliance with this Ordinance.

1. **Minimum requirements.** The provisions of this Ordinance shall be held to be the minimum required for the preservation, protection, and promotion of the public health, safety, convenience, comfort, and general welfare.
2. **Relationship to other ordinances or agreements.** This Ordinance is not intended to repeal or annul any ordinance, rule, regulation or permit previously adopted, issued, or entered into and not in conflict with this Ordinance, subject to the following:
  - a. Private deed restrictions or restrictive covenants shall have no effect on the applicability of this Ordinance.
  - b. Where the regulations of this Ordinance are more restrictive or impose higher standards or requirements than other such ordinances, rules or regulations, the requirements of this Ordinance shall govern.
3. **Unlawful structures and uses.** A structure or use not lawfully existing at the time of adoption of this Ordinance shall not be made lawful solely by adoption of this Ordinance.
4. **Vested right.** Nothing in this Ordinance shall be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein. Such rights as may exist through enforcement of this Ordinance are hereby declared to be subject to subsequent amendment, change or modification as may be necessary for the preservation, protection or promotion of the public health, safety, convenience, comfort or general welfare.

### Section 1.03 Short Title.

This Ordinance shall be known and may be cited as the City of Richmond Zoning Ordinance.

### **Section 1.04 Enabling Authority.**

This Zoning Ordinance has been prepared for and adopted by the City Council of the City of Richmond under the authority of the City and Village Zoning Act (P.A. 207 of 1921, as amended), following compliance with all procedures required by this Act.

### **Section 1.05 Compliance Required.**

No structure, site or part thereof, shall be constructed, altered or maintained, and no new use of any structure or land shall be established, changed or maintained, except in conformity with this Ordinance.

### **Section 1.06 Administration.**

Authority and responsibility for the administration and enforcement of all provisions of this Ordinance shall be as follows:

1. **City Manager authority and responsibilities.** The City Manager, as chief administrative official for the City of Richmond, shall have the ultimate responsibility for administrative oversight and enforcement of this Ordinance.
2. **Responsibilities of the zoning officials.** The City Planner, Building Official, and other designated City officials or duly authorized representatives shall have the responsibility of carrying out such administrative and enforcement duties as specified in this Ordinance, as delegated by the City Manager or as directed by the City Council for the purpose of implementing these regulations.
  - a. Under no circumstances shall any zoning official authorize changes to, vary from or ignore the terms of this Ordinance in carrying out designated duties. Zoning officials shall be required to administer and enforce the Zoning Ordinance precisely as written.
  - b. Designated zoning officials shall have the authority to approve zoning permits and take other actions as authorized by this Ordinance, and to make inspections of buildings or premises necessary to carry out the administrative and enforcement duties of this Ordinance.
  - c. It shall be unlawful for a zoning official to approve any plans or issue any permits or other approvals under this Ordinance unless such plans have been determined to conform to all applicable provisions of this Ordinance.
  - d. The zoning official shall not refuse to approve a zoning permit upon determination that the permit applicant has complied with all conditions imposed by this Ordinance, despite violations of private contracts, covenants or private agreements that may occur upon the approval of the permit.

### **Section 1.07 Enforcement.**

The standards and requirements of this Ordinance reflect obligations to the community at large, and violations of this Ordinance shall be considered a nuisance per se. The City's zoning official(s) shall,

upon determining that any provision of this Ordinance has been violated, take such necessary actions authorized by this Ordinance to ensure compliance with the provisions of this Ordinance.

**A. Inspection of Violation.**

The zoning official shall investigate each alleged violation and shall order a correction in writing for all conditions found to be in violation of this Ordinance.

**B. Correction Period.**

All violations shall be corrected within 30 days following the receipt of an order to correct from the zoning official. The zoning official may grant an extension of up to 180 days upon determining that the additional time is necessary for correction. The zoning official may require the immediate correction of a violation upon determining that the violation presents an imminent peril to life or property.

## **Section 1.08 Zoning Permits.**

The City Planner shall have the authority to grant zoning permits for work subject to the provisions of this Ordinance. No building, structure, site or use shall be established, occupied, used, erected, moved, enlarged, repaired or altered unless a zoning permit shall have been first issued for such work. No permit shall be issued unless the request is in conformance with the provisions of this Ordinance. Zoning permits shall be subject to the following:

**A. Application.**

Zoning permit applications shall be filed with the City Planner, and shall be accompanied by a written explanation of the proposed improvements. Application materials shall include sufficient detail for the City Planner to determine whether the proposed improvements conform to the applicable provisions of this Ordinance. The City Planner may require submittal of plans and specifications drawn to scale and showing the following:

1. The actual shape, location, and dimensions of the lot.
2. The shape, size, and location of any existing structures on the lot, and all structures to be erected, altered or moved.
3. The existing and intended use of the lot and of all structures upon it, including floor area devoted or intended for each use, and the number of dwelling units a residential principal building is intended to accommodate.
4. The location and dimensions of any existing and proposed yards, open space, and parking areas.
5. Proposed setbacks of structures from lot lines, street rights-of-way, zoning district boundaries or other site features.
6. Any other information deemed necessary by the City Planner to determine compliance with the applicable provisions of this Ordinance.

**B. Permit Issuance.**

Issuance of permits under this Ordinance shall be subject to the following:

1. No permit shall be issued until the City Planner has received notification of final approval of a site plan, special condition use or other necessary approval from the Planning Commission, including any conditions of approval.
2. It shall be unlawful for the City Planner to issue a zoning permit for proposed work that fails or has not been determined to conform to all applicable provisions of this Ordinance. The City Planner shall issue a zoning permit within ten (10) business days after determination that the proposed work conforms to all applicable provisions of this Ordinance.
3. In all cases where the City Planner shall refuse to issue a permit, the cause and reasons for such refusal shall be provided in writing to the applicant.
4. Proof of zoning permit approval shall be conspicuously posted upon the premises.

**C. Revocation.**

The City Planner may revoke a zoning permit in the case of failure or neglect to comply with any of the provisions of this Ordinance, or in the case of any false statement or misrepresentation made in the application for the permit. The City Planner shall notify the owner of such revocation in writing.

**D. Duration.**

If construction is not started within 365 calendar days of the date a permit is issued, the zoning permit shall become void. The City Planner may, upon written request, grant one (1) extension of zoning permit approval for a period of up to 180 calendar days.

**E. Zoning Inspections.**

It shall be the duty of the holder of every permit to notify the City Planner of the time when the work subject to the permit is ready for inspection. It shall be the duty of the City Planner or other designated zoning official to inspect work performed under an approved permit to verify compliance with the provisions of this Ordinance.

**Section 1.09 Certificates.**

No land, building, structure or part thereof, shall be occupied by or for any use unless and until a certificate of occupancy shall have been issued for such use. The following shall apply in the issuance of any certificate:

1. **Certificates including zoning.** Certificates of occupancy as required by the State Construction Code enforced by the City for new buildings, structures or parts thereof, or for alterations to or changes of use of existing buildings or structures, shall also constitute certificates of occupancy as required by this Ordinance.

2. **Certificates required.** No building or structure, or parts thereof, which is hereafter erected, or altered, shall be occupied or used or the same caused to be done, unless and until a certificate of occupancy shall have been issued for such building or structure.
3. **Zoning approval for a new certificate.** Zoning approval of a certificate of occupancy shall be granted upon determination by the zoning official that the use, building, structure or part thereof is in conformity with all applicable provisions of this Ordinance.
4. **Certificates not to be issued.** No certificates of occupancy shall be issued for any building, structure or part thereof, or for use of any land, which is not in accordance with all applicable provisions of this Ordinance.
5. **Certificates for dwelling accessory buildings.** Buildings or structures accessory to dwellings shall not require separate certificates of occupancy but may be included in the certificate of occupancy for the dwelling when shown on the plot plan and when completed at the same time as such dwellings.
6. **Record of certificates.** A record of all certificates issued shall be kept on file in the City offices, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.

## Section 1.10 Fees.

The City Council shall, by resolution, establish a schedule of fees for all permit applications and other reviews and approvals required by this Ordinance, subject to the following:

1. **Purpose.** These fees shall be used for the purpose of defraying the cost of reviews, inspections, and the issuance of zoning approvals, permits or certificates required or issued under the provisions of this Ordinance.
2. **Fee for service.** Required fees may be collected by the City in advance of the performing of the service or issuance of permits or certificates. No action shall be taken on any application or appeal until the application is accurate and complete and all applicable fees, charges, and expenses have been paid in full.
3. **Fees in escrow for professional reviews.** The City may require an escrow fee with any application for approval under this Ordinance, where professional input and review is desired before a final decision is made. The escrow shall be used to pay professional review expenses of engineers, community planners, and any other professionals whose expertise the City values to review the proposed application.
  - a. The amount of the escrow fee shall be established based on an estimate of the cost of the services to be rendered by the professionals. Any unused fee collected in escrow shall be returned to the applicant within 60 days of final City action on the applicant's request, or within 60 days of withdraw of the request by the applicant. If actual professional review costs exceed the amount of an escrow, the applicant shall pay the balance due prior to receipt of any zoning permit or other approval issued by the City.
  - b. The professional review will result in a written report indicating the extent of conformance or nonconformance with this Ordinance, and identifying any

problems that may create a threat to public health, safety or the general welfare. Mitigation measures or alterations to a proposed design may be identified where they would serve to lessen or eliminate identified impacts. The applicant will receive a copy of any written reports and statement of expenses for the professional services rendered, upon request.

### **Section 1.11 Performance Guarantees.**

To ensure compliance with this Ordinance and faithful completion of improvements shown on an approved site plan or required as part of any zoning approval authorized under this Ordinance, the City Manager may require that the applicant deposit with the City a financial guarantee to cover the cost of such improvements. Requirement of such guarantees by the City Manager shall be administered in accordance with a policy established by the City Council, and the following:

1. Such guarantees shall be deposited prior to the start of work or issuance of any permits.
2. “Improvements” shall be limited to those features, upgrades and enhancements associated with the project considered necessary by the approving authority to protect natural resources, or the health, safety, and welfare of residents of the City and future users of the project including, but not limited to roadways, lighting, utilities, sidewalks, landscaping and screening, and drainage.
3. The form of the deposit shall be cash, certified check, irrevocable bank letter of credit or other surety acceptable to the City Council. The City Manager shall determine the guarantee amount, which shall cover the full cost of uncompleted site improvements. The City Manager may solicit cost estimates for such improvements from the applicant or City zoning official(s) to make such determinations.
4. Performance guarantees shall continue until such time as the City notifies the surety that the conditions imposed upon the development have been met. The surety shall not release the performance guarantee until the zoning official is satisfied that the conditions for such action have been met.
5. As work progresses, the City may rebate cash deposits in reasonable proportion to the ratio of work completed on the required improvements. Ten percent (10%) of the guarantee shall be retained by the City pending a successful final inspection by the zoning official of all required improvements.

### **Section 1.12 Public Hearing Procedures**

The body charged with conducting a public hearing required by this Ordinance shall, upon receipt of a completed application, select a reasonable time and place for such hearing. Such hearings shall be held in accordance with state law, and the following procedures:

#### **A. Public Notice.**

Notice of the public hearing shall be posted at the place the hearing will be held and published in a newspaper of general circulation in the City of Richmond, and sent by mail or personal delivery to the applicant, owner(s) of property for which approval is being considered, all persons to whom real property is assessed within 300 feet of the boundary of the property in question and all

occupants of structures within 300 feet of the boundary of the property in question. If the name of the occupant is not known, the term “occupant” may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that one (1) occupant of each unit or spatial area shall receive notice if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

1. **Timing of notice publication and mailing.** The required notice for an amendment to this Ordinance or Official Zoning Map shall be published once and given by mail not less than 15 days before the hearing date. The required notice for all other public hearings required by this Ordinance shall be published once and given by mail not less than five (5) and not more than 15 days before the hearing date.
2. **Other required notifications.** For amendments to this Ordinance or Official Zoning Map, the required notice shall also be given by mail not less than 15 days before the hearing date to each public utility company and railroad operating within the affected district that has registered its name and mailing address with the City Clerk for this purpose. An affidavit of mailings shall be maintained by the City.
3. **Minimum notice contents.** The notice shall include the time and place of the hearing, the name of the body charged with conducting the hearing, a summary of the subject and purpose of the hearing, and a listing of the methods by which questions can be addressed and comments provided to the body charged with conducting the hearing.
4. **Discretionary notice.** The City may, at its discretion, post this notice at other locations accessible to the public, including but not limited to City Hall, public libraries, and the Internet. The City may also send this notice by mail to additional persons, including those located more than 300 feet from the boundary of the property in question, provided that the applicant shall not be required to pay for such additional mailings.

**B. Pre-Hearing Examination.**

Upon reasonable request, any person may examine the application and all other documents on file with the City pertaining to the subject and purpose of the hearing. Any person shall be entitled to copies of such application and documents upon reasonable request and payment of fees as established by the City Council to cover the cost of making such copies.

**C. Right to Submit Written Statements.**

Any person may submit written comments about the subject and purpose of the hearing prior to a hearing or within such time as may be allowed by the hearing body following such hearing. Such statements shall be made a part of the public record of the hearing.

**D. Timeframe for Hearings.**

The public hearing shall be scheduled for a date not more than 60 calendar days after receipt of a complete and accurate application by the body charged with conducting the hearing, unless the applicant shall agree to some later time.

**E. Rights of All Persons.**

Any person may appear and testify at a public hearing, either in person or by a duly authorized agent or attorney. Documentary evidence may be submitted for consideration, provided that the hearing body shall exclude such evidence deemed irrelevant, immaterial or unduly repetitious.

**F. Adjournment.**

The body conducting the hearing may at any time, on its own motion or at the request of any person, adjourn the hearing to a reasonable and fixed future date, time and place for the purpose of giving further notice, accumulating further evidence or information or for such other reasons that the body finds to be sufficient. Notice shall be provided of the adjourned hearing date, time and place in accordance with Section 1.12A (Public Notice).

**G. Governance.**

All other matters pertaining to the conduct of hearings shall be governed by applicable provisions of this Ordinance, and the rules and procedures adopted by the body conducting the hearing.

**Section 1.13 Violation and Penalties.**

The violation of any provision of this Ordinance by any firm, corporation, person or persons, or anyone acting on behalf of said person, persons, firm or corporation is a municipal civil infraction, for which the fine shall be not less than \$100.00 nor more than \$500.00 for the first offense and not less than \$500.00 nor more than \$1,000.00 for subsequent offenses, plus costs and other sanctions ordered by the court.

1. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this Ordinance.
2. Any violation of this Ordinance is a nuisance per se and may be abated by the Circuit Court through injunctive relief.
3. For purposes of this Section, the term “subsequent offense” shall mean a violation of the provisions of this Ordinance committed by the same person within 365 calendar days of a previous violation of the same provision for which the person admitted responsibility or was found responsible by the court.
4. Each day that a violation is permitted to exist shall constitute a separate offense. Offenses committed on subsequent days within a period of seven (7) calendar days following the issuance of a citation for a first offense shall all be considered separate first offenses.
5. It shall be the duty of the property owner and all persons having responsibility for the establishment of any use or the construction, alteration or demolition of any structure or site to verify that such work is not in violation of this Ordinance. Persons having responsibility for work in violation of this Ordinance shall be deemed responsible for such violations to the same extent as the property owner.