

ZONING ORDINANCE TEXT AMENDMENT (TA-22-01)

Unpaid Taxes and Charges

June 21, 2022 Board of Supervisors Meeting – PUBLIC HEARING

STAFF REPORT – Department of Planning

The purpose of this staff report is to provide information to the Planning Commission and Board of Supervisors to assist them in reviewing this proposed ordinance amendment. It may be useful to members of the general public interested in this proposed amendment.

Description:

Proposed text amendment to add a new Subsection E to Section 2.3 (Issuance of Permits and Approvals) of the Zoning Ordinance (Code of Clarke County Chapter 200, Article I). The purpose is to require payment of all delinquent real estate taxes, nuisance charges, and any other charges that constitute a lien on a subject property prior to acceptance of an application associated with that subject property. New Subsection E would apply to applications for any permit or review process delineated in Zoning Ordinance Section 6 (Permits and Review Processes), land disturbance permits issued in conjunction with Code of Clarke County Chapter 148 (Erosion and Sediment Control Ordinance), and building permits issued in conjunction with Code of Clarke County Chapter 71 (Building Construction).

Requested Action:

Conduct advertised Public Hearing and take action on the proposed text amendment.

Background:

There is currently no mechanism in the Zoning Ordinance or in the Code of Clarke County to authorize County staff to refuse to accept and process land development applications for a subject property from an applicant who has unpaid debts owed to the County and related to that subject property. Denying a property owner access to a County service such as regulatory permitting can be an effective tool for collection of unpaid debts.

Code of Virginia §15.2-2286(B) allows zoning ordinances to contain a requirement that applicants must produce satisfactory evidence that there are no unpaid debts owed to the locality that would constitute a lien on the subject property as a prerequisite for filing certain applications or for issuance of a final approval of such applications:

- B. *Prior to the initiation of an application by the owner of the subject property, the owner's agent, or any entity in which the owner holds an ownership interest greater than 50 percent, for a special exception, special use permit, variance, rezoning or other land disturbing permit, including building permits and erosion and sediment control permits, or prior to the issuance of final approval, the authorizing body may require the applicant to produce satisfactory evidence that any delinquent real estate taxes, nuisance charges, stormwater management utility fees, and any other charges that constitute a lien on the subject property, that are owed to the locality and have been properly assessed against the subject property, have been paid, unless otherwise authorized by the treasurer.*

The enabling language in this section applies to zoning applications as well as applications for land disturbance permits and building permits. The latter two permit types are not regulated by the Zoning Ordinance but by separate sections of the Code of Clarke County – Chapters 148 (Erosion and Sediment Control Ordinance) and 71 (Building Construction).

Proposed Text Amendment:

The proposed text amendment follows the enabling language in Code of Virginia §15.2-2286(B) in establishing a new Subsection E to Zoning Ordinance Section 2.3 (Issuance of Permits and Approvals). New Section 2.3E would apply to the following application types at the application filing stage as opposed to the final approval stage as allowed by §15.2-2286(B):

- All administrative, legislative, and quasi-judicial permit and review processes listed in Zoning Ordinance Section 6 (Permits and Review Processes)
- Land disturbance permits issued in conjunction with County Code Chapter 148
- Building permits issued in conjunction with County Code Chapter 71

Payment of unpaid taxes and charges associated with the subject property and owed to Clarke County would include:

- Delinquent real estate taxes
- Nuisance charges
- Any other charges that constitute a lien on the subject property and have been properly assessed by the County, unless otherwise authorized by the Treasurer of Clarke County

If adopted, County staff would refuse to accept any of the listed application types until all unpaid taxes and charges associated with the subject property are paid. Staff would also modify application forms to require certification from the applicant that there are no unpaid taxes or charges.

The proposed Ordinance amendment text is included at the end of this Staff Report.

Planning Commission Recommendation:

Following a duly advertised Public Hearing on May 6, 2022, the Commission voted 9-0-1 (Dunning absent) to recommend adoption of the proposed text amendment to the Board of Supervisors. There were no speakers at the Public Hearing.

Staff Recommendation:

Staff has no outstanding concerns with the adoption of this text amendment.

History:

- April 1, 2022.** Planning Commission voted unanimously to initiate consideration of the proposed text amendment and to schedule Public Hearing for the May 6, 2022 Business Meeting.
- May 6, 2022.** Commission held Public Hearing and voted 9-0-1 (Dunning absent) to recommend adoption of the proposed text amendment to the Board of Supervisors.
- May 17, 2022.** Board of Supervisors voted unanimously to schedule Public Hearing for the June 21, 2022 meeting.
- June 21, 2022.** Placed on the Board’s June meeting agenda and advertised for Public Hearing.

Ordinance Amendment Text (changes shown in bold italics with strikethroughs where necessary):

2.3 Issuance of Permits and Approvals

E. Unpaid taxes and charges. Payment of all unpaid taxes and charges associated with a subject property and owed to Clarke County is required prior to acceptance of an application associated with that subject property. Applications subject to this requirement include:

- Any permit or review process delineated in Zoning Ordinance Section 6 (Permits and Review Processes)***
- Land disturbing permits issued in conjunction with Code of Clarke County Chapter 148 (Erosion and Sediment Control Ordinance)***
- Building permits issued in conjunction with Code of Clarke County Chapter 71 (Building Construction)***

Payment of unpaid taxes and charges shall include all delinquent real estate taxes, nuisance charges, and any other charges that constitute a lien on the subject property, that are owed to Clarke County and have been properly assessed against the subject property, unless otherwise authorized by the Treasurer of Clarke County.