

ZONING TEXT AMENDMENT NO. ZT-2018-0007

CITY OF NEWPORT NEWS

BACKGROUND

The request is to amend Chapter 45, Article XXXII., Board of Zoning Appeals, Section 45-3205.1, Procedure for review and approval of exceptions to Chesapeake Bay preservation provisions. To delete “director of planning” and replace it with city manager’s designee.

On November 26, 2013, City Council approved an amendment to the Stormwater Management Regulations, Chesapeake Bay Preservation Ordinance that transferred the administration of the Chesapeake Bay Preservation Ordinance to the department of engineering. However, the City Planning Commission remains responsible for any amendments to the regulations.

Since the department of planning is no longer the administrator of the Chesapeake Bay Preservation Ordinance, Board of Zoning Appeals exception requests are not required to be filed with the department. The proposed amendment corrects the discrepancy between the Chesapeake Bay Preservation Ordinance and the Zoning Ordinance by assigning the filing of Board of Zoning Appeals applications for exceptions to the appropriate entity.

On August 15, 2018, the Regulations Committee reviewed and recommends approval of the above referenced amendment.

STAFF RECOMMENDATION

It is recommended that the City Planning Commission recommend to City Council adoption of Zoning Ordinance text amendment ZT-2018-0007.

APPENDIX

A-1 ARTICLE XXXII. BOARD OF ZONING APPEALS, SEC. 45-3205.1.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 45, ZONING ORDINANCE, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE XXXII., BOARD OF ZONING APPEALS, SECTION 45-3205.1, PROCEDURE FOR REVIEW AND APPROVAL OF EXCEPTIONS TO CHESAPEAKE BAY PRESERVATION PROVISIONS.

BE IT ORDAINED by the Council of the City of Newport News, Virginia:

1. That Chapter 45, Zoning Ordinance, of the Code of the City of Newport News, Virginia, Article XXXII., Board of Zoning Appeals, Section 45-3205.1, Procedure for review and approval of exceptions to Chesapeake Bay preservation provisions, as follows:

CHAPTER 45**ZONING ORDINANCE****ARTICLE XXXII. BOARD OF ZONING APPEALS****Sec. 45-3205.1. Procedure for review and approval of exceptions to Chesapeake Bay preservation provisions.**

(a) An application to the board for an exception to the provisions of Chapter 37.1, Article V, Chesapeake Bay Preservation, of the City Code, as amended, and Sections 37.1-51(b)(1)b., 37.1-51(b)(1)c., 37.1-51(b)(1)d., 37.1-51(b)(1)m., and 37.1-51(b)(2) thereof, may be made by any property owner, government official, department, board or bureau and shall be filed with the director of planning city manager's designee.

(b) No exception shall be authorized except after notice and hearing as required by Sec. 15.2-2204 of the Code of Virginia, 1950, as amended, except that only one hearing shall be required before the board. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the notice may be given by first class mail rather than by registered or certified mail.

(c) The board may grant exceptions to the provisions of Sections 37.1-51(b)(1)b., 37.1-51(b)(1)c., 37.1-51(b)(1)d., 37.1-51(b)(1)m, and 37.1-51(b)(2) upon its making the following findings:

- (1) The requested exception to the criteria is the minimum necessary to afford relief;

- (2) Granting the exception will not confer upon the applicant any special privileges that are denied by Chapter 37.1 to other property owners who are subject to its provisions and who are similarly situated;
- (3) The exception is in harmony with the purpose and intent of Chapter 37.1, Article V. and is not of substantial detriment to water quality;
- (4) The exception request is not based upon conditions or circumstances that are self-created or self-imposed;
- (5) Reasonable and appropriate conditions are imposed as warranted that will prevent the allowed activity from causing a degradation of water quality; and
- (6) Other conditions required by the board are met.