

ORDINANCE NO. 2025-12

AN ORDINANCE TO AMEND CHAPTER 21 ARTICLE 4.6 CONDITIONAL ZONING

WHEREAS, the purpose of this ordinance is to update the Town Code to be consistent with controlling law pursuant to the authority under Virginia Code Section § 15.2-2303; and

WHEREAS, the Ashland Town Council desires to amend the Ashland Town Zoning Code to protect the Town from potential legal challenges; and

WHEREAS, Ord. No. 2025-12 was duly advertised in the Richmond Times Dispatch on November 26th, 2025, and the Mechanicsville-Ashland Local on December 3rd, 2025; and

WHEREAS, the Ashland Town Council held a public hearing on this matter at the regularly scheduled meeting on January 20th, 2026; and

WHEREAS, the Ashland Town Council finds that the adoption of Ord. No. 2025-12 is required by the public necessity, convenience, general welfare, and good zoning practice.

NOW, THEREFORE, BE IT ORDAINED by the Town Council for the Town of Ashland, Virginia that the Town shall utilize the conditional zoning authority granted under Virginia Code Section 15.2-2303 rather than Section 15.2-2298; and

BE IT FURTHER ORDAINED AND ENACTED by the Town Council for the Town of Ashland, Virginia, meeting in regular session this day of January 20th, 2026, that Chapter 21, Article 4.6 of the Code of Ordinances, Town of Ashland, Virginia (1996), as adopted, be amended as follows, such being the Town's reasonable regulations and provisions for conditional zoning authorized under Virginia Code Section 15.2-2303:

Sec 21-4.6 Conditional Zoning

- (a) *Purpose of conditional zoning.* The purpose of conditional zoning is to provide a method for permitting the reasonable and orderly development and use of land in those situations in which peculiar circumstances indicate that the existing zoning ordinance district regulations are not adequate. Frequently, where competing and incompatible uses conflict, traditional zoning methods and procedures are inadequate. In these cases, more flexible zoning methods and procedures are needed to permit differing land uses, and at the same time to recognize effects of change. In these instances, reasonable conditions voluntarily proffered by the zoning applicant may be allowed for the protection of the community that are not generally applicable to land similarly zoned. **The provisions of this section shall not be used for the purpose of discrimination in housing.** ~~Except as specifically provided in this section, conditional zoning shall be subject to the same provisions as all other zoning map amendments.~~
- (b) ~~Approval of conditions as part of a rezoning amendment to zoning map.~~ **In accordance with Code of Virginia § 15.2-2298(A), the town chooses to utilize the conditional zoning authority granted under § 15.2-2303, rather than under § 15.2-2298(A).** ~~The applicant~~

~~shall, if he or she elects to obtain conditional zoning, voluntarily proffer in writing such conditions as he or she deems appropriate at the time of filing an application to rezone the property, or by such later date as the commission shall establish in its rules and regulations; but, in any event, before the commission makes its recommendations to the town council.~~

~~In the event that additions thereto or modifications thereof are desired by the applicant, the same shall be made in writing not less than fourteen (14) days prior to the time at which the commission makes its recommendation to the town council, unless the commission:~~

- ~~(1) Specifically waives such time period, or~~
- ~~(2) Specifically establishes such greater or lesser time period as it deems reasonable.~~

~~The town council may consider additional proffers, deletions and/or amendments to all such conditions provided same have been voluntarily proffered in writing by the applicant for the property which is the subject of the rezoning request prior to the public hearing at which the town council renders its decision.~~

(C) *Proffer of Permitted conditions-as part of a rezoning-or-amendment to zoning map.* The applicant may, if they elect to pursue conditional zoning, voluntarily proffer in writing such reasonable conditions as they desire, in addition to the regulations provided for in the zoning district or zone sought in the rezoning petition. The conditions shall be proffered as a part of the requested rezoning or amendment to the Town's zoning map and, if accepted, shall attach to the zoning on the property subject to such conditions. No proffers shall be submitted or accepted as part of an application for conditional zoning related to any residential rezoning or zoning map amendment, or any residential component of a multi-use district rezoning or zoning map amendment ("Residential Rezoning Application") unless such proffers are submitted pursuant to Section 15.2-2303.4(D) of the Code of Virginia, 1950, as amended. Accordingly, failure to submit such proffers in a Residential Rezoning Application shall not be a basis for denial of that application for rezoning. All proffers shall be provided in the form of a recordable instrument prior to the hearing before the Town Council and in accordance herewith. Once proffered and accepted as part of an amendment to the zoning ordinance, such conditions shall continue in effect until a subsequent amendment changes the zoning on the property covered by such conditions; however, such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance. ~~The town council may approve reasonable conditions to rezoning provided that the following criteria are met:~~

- ~~(1) The rezoning itself must give rise to the need for the conditions.~~
- ~~(2) All conditions shall have a reasonable relation to the rezoning.~~
- ~~(3) All conditions shall be in conformity with the town's comprehensive plan.~~
- ~~(4) The provisions of this section shall not be used for the purpose of discrimination in housing.~~

- ~~(5) In the event proffered conditions include the dedication of real property or the payment of cash in accordance with section 15.2-2298 of the Code of Virginia, 1950, as amended, the property shall not transfer and the payment of cash shall not be made until the facilities for which the property is dedicated or cash tendered are included in the capital improvements program, provided that the town may accept proffered conditions which are not normally included in the capital improvements program. If proffered conditions include the dedication of real property or the payment of cash, the proffered conditions shall provide for the disposition of the property or cash payment in the event the property or the cash payment is not used for the purpose for which proffered.~~

(d) *Records of conditional zoning.*

- (1) The zoning map shall show by an appropriate symbol the existence of conditions attached to the zoning on the map.
- (2) The zoning administrator shall maintain a conditional zoning index which shall be available for public inspection during regular office hours. The index shall provide ready access to the ordinance creating the conditions, a list of all conditions applicable in each case, and to the regulations applicable in the particular zoning district.
- (3) **Conditions proffered and accepted by the Town Council shall be recorded by the zoning administrator in the land records of Hanover County within ten (10) days of the Town Council's rezoning action becoming final. In such recordation the town shall be indexed as a "Grantee."**

(e) *Enforcement and guarantees.* In order to ensure the intent and purpose of conditional zoning approved in accordance with this section, the zoning administrator shall be vested with all necessary authority on behalf of the town council to administer and enforce conditions attached to a rezoning or amendment of a zoning map, including:

- (1) Ordering in writing, the remedy of any noncompliance with conditions.
- (2) Bringing of appropriate legal action or proceeding to ensure compliance with the conditions.
- (3) Requiring a guarantee satisfactory to the town council in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or released by the town council, or its agent, upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part.
- (4) Denial of zoning approval or other certification with regard to the issuance of any required use, occupancy or building permit.

(f) *Review of zoning administrator's decision.* Any person who is aggrieved by the administrator's decision or actions under subsection (e) of this section regarding enforcement and guarantees may petition the town council for review of such decision(s).

Such petition shall be filed with the administrator and with the clerk of the town council within thirty (30) days from the date of the decision for which review is sought, and shall specify the grounds upon which the petitioner is aggrieved.

- (g) *Amendments and variations of conditions.* All amendments and variations of adopted conditions shall be made only after notice and public hearing and in the same manner as an original conditional zoning action in accordance with all applicable provisions of this article.

This Ordinance shall take effect upon adoption.

On a motion of Councilmember Barnhart, seconded by Councilmember McGraw, the Ashland Town Council voted to approve **Ordinance 2025-12**.

This Ordinance shall take effect upon adoption.

Passed

Vote:

Mayor Trivett

Vice Mayor McGraw

Councilmember Barnhart

Councilmember Sopall

Councilmember Molloy

> 11 "ayes"

Signed: *ST* Date: 1/20/26
Steve Trivett, Mayor

A copy Teste: *DA Goodman*
Douglas A. Goodman, Clerk of Council

Public Hearings:

Town Council: January 20, 2026

Adopted: 1-20-26