

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: April 12, 2011

AGENDA ITEM NO.: 13

CONSENT: REGULAR: X

WORK SESSION:

CLOSED SESSION:
(Confidential)

ACTION: X

INFORMATION:

ITEM TITLE: Consideration of Initiating Amendments to the *Zoning Ordinance* – Zoning Inspection Warrants

RECOMMENDATION: Initiate amendment to the *Zoning Ordinance* to create Section 35.1-20.1, Inspection Warrants. Initiating the amendment will not alter the *Zoning Ordinance*, but will allow staff to advertise for public hearings before the Planning Commission and City Council.

SUMMARY: § 15.2-2286 of the Code of Virginia provides that the Zoning Administrator may request an inspection warrant from the court magistrate to enable entrance into a dwelling for the purpose of determining whether violations (such as the number of unrelated people residing in a dwelling) of the *Zoning Ordinance* exist. Currently when the Zoning Administrator receives a complaint regarding the number of people living in a dwelling the following actions are taken:

- Number of occupants is requested from the property owner
- License plates of cars at the residence are checked to determine ownership
- Water usage rates are checked to gauge the number of people living in the residence
- Police Department calls for service are reviewed for information relating to number of people in the residence

Often occupants do not own vehicles and out of state property owners are difficult to contact or are not cooperative in providing information concerning occupant information. There is a high turnover rate in the occupants of boarding/rooming houses which also makes it difficult to determine the number of people residing in a building. Neighbors of a property with a perceived zoning violation are often reluctant to testify in court. The majority of complaints are addressed through the actions listed above and violations are corrected. There are other situations where a violation is believed to exist and citizen complaints can not be resolved due to the lack of information needed to pursue legal actions through the courts.

While infrequent use is expected, allowing the Zoning Administrator the ability to request an inspection warrant from the court magistrate would provide an additional tool to address suspected zoning violations when all other resources have been exhausted.

PRIOR ACTION(S): None

FISCAL IMPACT: None

CONTACT(S): Rob Fowler, Zoning Administrator – 455-3900
Tom Martin, City Planner - 455-3900
Kent White, Director of Community Development – 455-3900

ATTACHMENT:

- Resolution

REVIEWED BY: lkp

WHEREAS: the General Assembly recently amended the State Code to give local governments the authority to include a provision in their zoning ordinances allowing zoning officials to apply for an administrative inspection warrant to inspect property to determine if zoning violations exist when the property owner refuses to consent to an inspection.

WHEREAS, Lynchburg's Zoning Ordinance does not currently allow the Zoning Administrator to request an inspection warrant from the magistrate or court of competent jurisdiction to enable entrance into a dwelling for the purpose of determining whether violations of the Zoning Ordinance exist.

WHEREAS, it is the intent of City Council to protect the character and the social and economic stability of all parts of the city; to encourage the orderly and beneficial development of all parts of the city; and to protect and conserve the value of land and buildings appropriate to the various districts established by the zoning ordinance.

WHEREAS, the City Council has determined that its consideration of and action on the proposed zoning amendments will promote the public necessity, convenience, general welfare and good zoning practice within the City;

NOW, THEREFORE, BE IT RESOLVED by the City Council that in order to take advantage of the authority granted to the City by the General Assembly and in order to promote the public necessity, convenience, general welfare and good zoning practice the City Council does hereby initiate, will consider and directs City Staff to prepare a proposed amendment of the City's Zoning Ordinance which would allow the Zoning Administrator to request an inspection warrant from the magistrate or court of competent jurisdiction to enable entrance into a dwelling for the purpose of determining whether violations of the Zoning Ordinance exist.

Adopted: April 12, 2011

Certified: Valeri P. White
Clerk of Council

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c: R. Fowler
~~K. White~~