

ORDINANCE # 09-__
PROPOSED ORDINANCE # 09-__

**AN ORDINANCE TO AMEND AND SEC. 21-2 AND ADD SEC. 21-619 *et seq.* OF
ARTICLE I AND ARTICLE IV, CHAPTER 21 OF THE WILLIAMSBURG CODE,
OCCUPANCY LIMITATIONS
(PCR #08-034)**

WHEREAS, the Code of the City of Williamsburg currently provides that no more than three unrelated people may legally occupy any dwelling as a single housekeeping unit; and

WHEREAS, after due consideration, City Council deems it appropriate and beneficial to amend said occupancy limitation to allow one additional unrelated person to occupy a single family dwelling under certain circumstances and under certain conditions, which conditions include limiting the increase to dwellings of a minimum size with sufficient parking, full compliance with state laws and city ordinances, and annual inspections for compliance with the conditions of the increase occupancy; and

WHEREAS, the conditions are intended allow a limited increase in the occupancy limitation while minimizing the impact of additional occupancy on neighboring properties, and to allow for better enforcement of occupancy limitations in the zoning ordinance; and

WHEREAS, to provide for such a limited increase in occupancy and provide for the conditions under which said increase may occur, Council deems it appropriate to add Section 21-610 *et seq.* which defines the increase in occupancy and under what circumstance and conditions such an increase may occur;

NOW, THEREFORE, it is hereby **ORDAINED**, that the definition of “Family” located in Article I of Chapter 21, Sec. 21-2, of the Code of the City of Williamsburg, hereby amended and restated and Article IV of Chapter 21, Sec 21-619 *et seq.* is hereby added to read as follows:

ARTICLE I. IN GENERAL

Sec. 21-2. Definitions.

Dwelling means any building or portion thereof which is designed or used exclusively for residential purposes, but not including hotels, motels, time-share units, travel trailers, recreational vehicles, or similar accommodations.

- (1) *Single family detached dwelling* means a separate, detached building containing one dwelling unit.
- (2) *Duplex dwelling* means a separate, detached building containing two dwelling units, which dwelling units may be on separate lots.

- (3) *Multi-family dwelling* means a building containing three or more dwelling units; or one or more dwelling units when the primary use of the building is for a permitted non-residential use.
- (4) *Townhouse* means a single family attached dwelling, containing one dwelling unit, in a row of not less than three nor more than ten such units. Each unit shall be separated from adjacent dwellings by solid party walls, and shall be located on a separate lot of record.

Dwelling unit means one or more rooms arranged, designed or intended to be occupied as separate living quarters by one family, and including permanent provisions for living, sleeping, eating, cooking and sanitation.

Family:

- (a) A family is, exclusive of household servants:
 - (1) An individual;
 - (2) Two or more persons related by blood, adoption, marriage or guardianship, living and cooking together as a single housekeeping unit;
 - (3) A number of persons, not exceeding three, living and cooking together as a single housekeeping unit though not related by blood, adoption, marriage or guardianship (the number of persons in a single family detached dwelling may be increased to four if the provisions of Sec. 21-619 et seq. are met); or
 - (4) Not more than two unrelated persons living and cooking together as a single housekeeping unit, along with one or more dependents related to either of them by blood, marriage, adoption or guardianship.
- (b) For purposes of single-family residential occupancy, family shall be deemed to include group homes or other residential facilities licensed by the department of mental health, mental retardation and substance abuse services occupied by not more than eight mentally ill, mentally retarded or developmentally disabled persons together with one or more resident counselors or other staff persons. Mental illness and developmental disability do not include current illegal use of or addiction to a controlled substance as defined in Code of Virginia, § 15.1-3401.

ARTICLE IV. SUPPLEMENTAL DISTRICT REGULATIONS

Sec. 21-619. Increase in residential occupancy for single family detached dwellings

(a) The residential occupancy in a single family detached dwelling by persons not related by blood, adoption, marriage or guardianship may be increased from three persons to four persons if the following conditions are met:

- (1) An application for an increase in residential occupancy shall be filed with the zoning administrator, which shall include: a floor plan showing the

location of all bedrooms, including dimensions and floor area, and a sketch showing the lot, its size, the location of the dwelling, the location of the on-site parking to be provided, and the lot coverage of the driveways and parking areas. Said application shall contain a provision that the signatory thereof agrees to comply with the provisions of this section. Said application shall be signed by the owner, or agent (if any).

(2) The owner or agent shall file an application and comply with the provisions of this section for each year the owner or agent intends to permit more than three unrelated individuals to reside in the dwelling and the proposed date of occupancy of the property by more than four unrelated occupants, which shall be no later than thirty days after the date shown in the lease document required in subsection (b) (1).

(3) The requirements of the Virginia Uniform Statewide Property Maintenance Code and the rental inspection program as set forth in Article VII of Chapter 5 (where applicable) shall be met at all times. Owners or agents of dwellings not located in the rental inspection districts as defined in Chapter 5 shall agree in writing to submit the dwelling to inspections pursuant to the program and comply with all the requirements of the rental inspection program. Said inspection(s) must be complete prior to any certificate being issued pursuant to this section.

(4) Dwellings must have a square footage of at least 1,200 square feet of living space, excluding garages and unfinished basements, or other unfinished areas which shall not be included in the square footage calculation for purposes of this section.

(5) One parking space shall be required for each person living in the dwelling. Parking spaces may be off-street in accordance with Article V, Parking, or located along the frontage of the adjoining public street and contiguous to the lot. The length of a parking space located on an adjoining public street shall be 22 feet.

(b) Upon receipt of the application and upon the zoning administrator's determination that the owner has met and that the dwelling meets all of the conditions and requirements in subparagraphs (a) of this Section, the zoning administrator shall provide a conditional certificate of occupancy, at which point, the owner or agent may proceed to lease the property to no more than four unrelated persons. The conditional certificate is intended to as a temporary certificate showing that all conditions and requirements in subparagraph (a) have been met, and shall include an expiration date of no longer than thirty days from the date of the proposed occupancy date in the application, after which time, the dwelling may not be occupied by four unrelated period unless the owner and occupants have satisfactorily completed the additional requirements as hereinbelow provided.

- (1) Prior to occupancy, the owner shall provide the zoning administrator with a copy of the lease for the four occupants, the names of the occupants, and the telephone numbers for the occupants. Only occupants that are signatories to the lease shall reside in the dwelling. If the occupants of the dwelling change, the owner shall provide the zoning administrator with a copy of the updated lease, and the name and telephone number of the new occupant(s) and the fourth unrelated person shall not occupy the dwelling prior to the new lease and occupant information is provided to the zoning administrator. The lease shall expressly provide that the occupants may not sublease. The owner may redact from the lease the yearly and monthly rental amount prior to submitting the lease to the zoning administrator.
- (2) The owner or agent shall distribute to each of the occupants a pamphlet provided by the zoning administrator which outlines the requirements of this section at least seven days prior to occupancy of the dwelling by the occupants and shall file with the zoning administrator an affidavit that said pamphlet has been provided to the occupants, including the date of when the pamphlet was provided.
- (3) The zoning administrator shall provide to the owner, and the owner shall return to the zoning administrator a form wherein the occupants acknowledge that they have read and understand and agree to comply with the requirements of the program, which form shall be signed by all of the occupants of the property and returned to the zoning administrator prior to the occupancy of the dwelling.
- (4) The dwelling shall be inspected by the zoning administrator on an annual basis. The initial inspection shall occur upon occupancy of the property or as soon thereafter as practicable. Subsequent inspections shall occur annually if the property continues to be occupied by more than three unrelated people under this section. The zoning administrator shall arrange to inspect the property with the owner and/or occupants, which inspection shall be permitted by the owner and or occupants.
- (5) A certificate of occupancy shall be issued by the zoning administrator when all of the required conditions have been met.
- (6) Repeated, founded complaints of excessive noise, litter, or other violations of this Chapter, Chapter 12, the Virginia Uniform Statewide Building Code, or the Virginia Statewide Fire Prevention Code, as such are amended from time to time, or other behaviors at the dwelling constituting a nuisance under the city code and Code of Virginia as amended from time to time, shall be cause for the revocation of the certificate of occupancy granted herein. Complaints shall be deemed to be founded when after an investigation by the police, fire marshal, building inspector, zoning

administrator, or other appropriate member of city staff, said member of staff determines that it is more probable than not that the violation has occurred.

- (7) If the zoning administrator receives a complaint that more than the permitted number of occupants are residing at the dwelling, and after investigation the zoning administrator deems the complaint to have been made in good faith, and with reasonable cause, then the zoning administrator shall provide notice to the occupants of the property that an inspection of the property has been scheduled, and provide the time wherein the property shall be inspected. Posting of the notice on the front door of the property by the zoning administrator shall constitute sufficient notice. The zoning administrator will make reasonable efforts to contact the owner and provide the owner with the notice that the property will be inspected. However, failure of the owner to receive notice that the property is scheduled for an inspection shall not cause the inspection to be postponed or cancelled. The occupants of the property shall permit the inspection of every room of the dwelling for the sole purpose of determining the number of people residing at the property. No inspection pursuant to this section shall be conducted by the zoning administrator with less than 24 hours notice to the occupants that such an inspection has been scheduled.

(c) If at any time the dwelling does not meet the requirements of the applicable regulations, or the owner, agent or occupants of the property fail to fully comply with the provisions of this section, the certificate of occupancy shall be revoked and the normal occupancy limit of three persons shall be enforced. Any owner or agent, whose certificate under this section has been revoked under this paragraph, shall not be eligible to receive a new certificate for that dwelling for a period of three calendar years. A certificate may be applied for after the three year period of time, or, an application may be submitted by the owner or agent for that dwelling prior to that three year period of time if the property has been sold by the previous owner to an third party purchaser in an arms length transaction. The three year period will continue if such sale was made to a legal entity of which the previous owner or agent has any ownership stake or made to a close family member of the previous owner or agent.

This ordinance shall become effective on the tenth day following its passage.

Adopted: _____

Jeanne Zeidler, Mayor

Clerk of Council

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