

ORDINANCE #17-15A

AN ORDINANCE ADDING SECTION 21-623 DUPLEXES TO CHAPTER 21, ARTICLE IV OF THE CODE OF THE CITY OF WILLIAMSBURG (PCR #17-014)

WHEREAS, there are a number of existing duplex dwelling units in the existing single-family residential neighborhoods of the City which have been in existence for decades and which have not historically detracted from the neighborhoods in which they exist; and

WHEREAS, duplex dwellings have not been permitted as a use by right in single-family residential neighborhoods of the City since 1966; and

WHEREAS, the City does not have a comprehensive list of which duplexes are legally nonconforming and which duplexes are not due to the age of the properties, the lack of building records from such time, and the nature of the use; and

WHEREAS, the City Council desires to create certainty to the extent possible with respect to the City's zoning ordinance and the rights associated with these properties, without harming those property owners who purchased existing duplexes which have been in existence for decades, but for which records may no longer exist which demonstrates such legal nonconformity, and further to do so without also harming the single-family neighborhoods in which such duplexes are already located; and

WHEREAS, the Council does not desire nor intend to create a use by right for those properties which are not otherwise legally nonconforming, but does intend to permit many of such properties to continue to be used as duplexes, with conditions, by creating a special exception for those properties which qualify pursuant to the conditions of the special exception.

NOW, THEREFORE BE IT ORDAINED that Section 21-623 is hereby added to Chapter 21, Article IV of the Code of the City of Williamsburg, as follows:

CHAPTER 21

ARTICLE IV – SUPPLEMENTAL DISTRICT REGULATIONS

Section 21-623. Duplexes.

(a) Intent. These regulations are established to allow duplex dwellings existing in residential districts prior to January 1, 2004 to continue to be used as duplex dwellings notwithstanding the owner's ability to demonstrate the existence of a legal non-conforming use, so long as the owner meets certain conditions.

(b) Continued use of a dwelling as a duplex dwelling, though nonconforming, shall be contingent upon approval of a special exception for such use by the Board of Zoning Appeals, subject to the following conditions:

1. The dwelling was being used as a duplex at the time the record owner making application for the special exception purchased the property. Properties transferred after September 1, 2017 and which are transferred from an owner creating the nonconformity shall not qualify for the special exception.

2. The dwelling was used as a duplex prior to January 1, 2004 and the use as a duplex has continued without interruption for a period of more than two years thereafter.

3. The use of the property as a duplex dwelling will not have an adverse impact on the neighborhood. In determining adverse impact, the Board of Zoning Appeals shall only consider ~~whether or not the property has had three or more complaints~~ *the history of complaints* substantiated by the City staff, within the four years prior to the date of the application, for violations of any of the Virginia Uniform Statewide Building Code, the Virginia Statewide Fire Prevention Code, Chapter 12 of the Code of the City of Williamsburg related to nuisance, or the zoning ordinance related to occupancy in excess of the number of unrelated persons permitted to reside in a dwelling unit. *Three violations within that four year period shall be considered a significant number of violations leading to disqualification. Notwithstanding the above, if the Board of Zoning Appeals finds that the violations were fully and appropriately corrected as provided in the notice(s) of violation, they may approve the special exception, provided the applicant meets all of the other qualifications.*

4. City records do not otherwise clearly establish the property is not legally nonconforming.

(c) The special exception shall run with the property. A nonconforming use permitted by the special exception may not be expanded.

(d) The special exception may be revoked by the Board of Zoning Appeals upon a showing that the property has had three or more violations confirmed by City staff of any of the Virginia Uniform Statewide Building Code, the Virginia Statewide Fire Prevention Code, Chapter 12 of the City Code regarding nuisances, or the zoning ordinance regarding the number of unrelated persons permitted to reside in a dwelling unit, within a twelve month period measured backwards from the date of the most recent violation.

(e) The special exception shall terminate upon the cessation of the property's use as a duplex dwelling for two or more years.

Secs. 21-624 - 21-700. Reserved.

Except as otherwise herein amended, the city code shall remain unchanged.

Adopted: August 10, 2017



Donna Scott, City Council Clerk



Paul T. Freiling, Mayor