

ORDINANCE #19-01

AN ORDINANCE TO ADD SECTION 21-605.2 TO CHAPTER 21, ZONING, OF THE CODE OF THE CITY OF WILLIAMSBURG TO AUTHORIZE THE SHORT-TERM RENTAL OF ONE ROOM TO TRANSIENT VISITORS WITHIN OWNER-OCCUPIED SINGLE-FAMILY DETACHED DWELLINGS WITH A SPECIAL EXCEPTION (PCR#18-015)

WHEREAS, in 2017 the Virginia General Assembly enacted Section 15.2-983 of the Code of Virginia (1950), as amended, which restates that localities are authorized to regulate short-term rentals within their jurisdictions; and

WHEREAS, short-term rental of accommodations in single-family and other dwellings has become a widely accepted and popular choice among travelers and tourists, and provides a supplemental income potential to property owners; and

WHEREAS, although popular, short-term rentals of real property have the potential to create detrimental impacts on single-family neighborhoods in the City, including traffic, noise and other nuisances, in addition to imposing economic pressure on single-family neighborhoods in the City which are already subject to significant impacts resulting from the City's high demand residential rental market, and examples of short-term rentals negatively affecting the availability and affordability of single-family residential dwellings as well as the peaceful enjoyment of neighborhoods in which large numbers of short-term rentals are located can be found across the country; and

WHEREAS, the City Council has for decades sought to balance the needs of owner-occupied single-family neighborhoods with commercial interests created by the unique circumstances of the City of Williamsburg, home to both a world-class institution of higher education and a world-class historic and cultural attraction; and

WHEREAS, City Council has long maintained policies which ensure that the City, and in particular its neighborhoods downtown, remain a place where families want to settle and have determined that these policies are critical to ensuring that Williamsburg remains a safe, thriving and vibrant City; and

WHEREAS, to that end, permitted uses have historically been carefully considered and deliberately conservative in order to avoid a critical convergence of adverse impacts on precarious neighborhoods; and

WHEREAS, City Council has determined that unregulated and unlimited use of property for short-term rentals has the potential to create such a critical convergence of adverse impacts; and

WHEREAS, City Council, however, recognizing the need to accommodate short-term rental demand in the City, desires to do so in a way that does not result in

reduced desirability of the City's single-family neighborhoods for resident families or induces the purchase and use of the City's single-family dwellings for commercial purposes, and

WHEREAS, City Council desires to allow for revenue generation for owner-occupied properties not currently permitted by the City's zoning ordinance, which may make owner-occupied single-family dwellings in the City more affordable by providing an additional supplemental revenue opportunity for those owner-occupants; and

WHEREAS, the City Council has determined that allowing the short-term rental of one room to transient visitors within owner-occupied single-family detached dwellings as an accessory business use accomplishes these goals and limits potential adverse impacts; and

WHEREAS, City Council has determined that permitting said use as a special exception, with reasonable on-going regulations, provides sufficient review and oversight to ensure that the development and operation of such an accessory business use is done in a manner that ensures both the welfare and safety of transient visitors, the neighborhoods in which the accessory use is located, and the interests of adjacent property owners.

NOW, THEREFORE BE IT ORDAINED that Section 21-605.2 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 21-605.2 – Rental of one room in single-family detached dwellings to visitors.

(a) *Intent.* These regulations are established to allow the rental of one room to transient visitors in single-family detached dwellings only while at the same time preserving the residential character of the neighborhoods in which the dwellings are located. To these ends, a one room rental to transient visitors is allowed throughout residential districts as a business accessory use, with a special exception, but is limited to owner-occupied single-family detached dwellings.

(b) *Rental of a room to transient visitors.* Rental of a room to transient visitors shall be permitted only in owner-occupied single-family detached dwellings. Room may consist of a bedroom, bathroom, closet(s), and a sitting area for the exclusive use of the transient visitors, but may not include cooking facilities separate from the primary cooking facilities serving the single-family detached dwelling.

(c) *Limitation.* Rental of a room to transient visitors shall be permitted for not more than 104 nights per calendar year, and shall be contingent upon approval as a

special exception use by the Board of Zoning Appeals in accordance with section 21-97(f), and subject to the following:

(d) *Owner-occupied single-family detached dwelling defined.*

- (1) For the purpose of this section, a single-family detached dwelling shall be deemed "owner-occupied" only so long as it is regularly occupied by:**
 - a. An adult individual who owns at least a 50 percent undivided fee simple interest in such dwelling and the lot upon which it is located and regularly occupies said dwelling as his or her principal place of residence; or**
 - b. The stockholder(s) of at least 51 percent of the individual outstanding voting stock of a corporation, chartered in the Commonwealth of Virginia, or the member(s) of a limited liability company or limited partnership chartered in the Commonwealth of Virginia, who own the controlling interest therein, which corporation or limited liability company or limited partnership owns full fee simple title to the dwelling and the lot on which it is located, and which controlling stockholder(s)/member(s)/partners are related to one another as provided in the definition of family as provided in Section 21-2 and regularly occupy said dwelling as their principal place of residence along with their family.**
 - c. The trustee or adult primary beneficiary of a trust, when the property is held as an asset of the trust and the trustee or adult primary beneficiary occupies the dwelling as his or her principal place of residence.**

- (2) Ownership shall be established as follows:**
 - a. Record ownership of fee simple title shall be certified by an attorney-at-law duly licensed to practice in the Commonwealth of Virginia, and shall be based upon examination of the land records in the Clerk's Office for the Circuit Court of the City of Williamsburg and County of James City made not earlier than the day before delivery of the certification to the zoning administrator. Such certification shall be in form acceptable to the city attorney.**
 - b. The identity of stockholders of a corporation and members of a limited liability company shall be established by affidavit of all stockholders or members in form satisfactory to the city attorney. Such affidavit shall state that said stockholders of the majority interest of the corporation, or the majority of the members of the limited liability company, regularly occupy the dwelling as their primary residence.**
 - c. The identity of the trustee or primary beneficiary of a trust shall be established by providing a copy of the trust document accompanied by an affidavit of the trust identifying the current adult trust beneficiaries.**

- (3) On the first business day of each January following the issuance of the special exception, the ownership and occupancy of the dwelling and lot, if unchanged, shall be established as follows:**

- a. In the case of individual ownership, by affidavit of the owner or owners originally identified in the attorney's title certification furnished in connection with the permit application;
- b. In the case of corporate ownership, the corporation's continued full fee simple ownership and the identity of the controlling stockholders shall be established by the affidavit of the president of the corporation and the continued occupancy of the dwelling and lot as the principal residence of the controlling stockholders shall be established by their affidavits; or
- c. In the case of ownership by a limited liability company, the company's continued ownership of full fee simple ownership, the fact that the members previously identified as owning control of the limited liability company continue to do so and that said members continue to occupy the dwelling and lot as their primary residence shall be established by their affidavits.

(4) If a change in fee simple ownership of the dwelling and lot has occurred since the last annual certification, then the current fee simple ownership shall again be established by certificate of a duly licensed attorney-at-law based upon examination of the land records in the Clerk's Office of the Circuit Court for the City of Williamsburg and the County of James City. In such case, the identity of controlling stockholders, in the case of a corporation or controlling members, in the case of limited liability company and the facts regarding occupancy shall be established by affidavits as provided in section 21-605.2(d)(2) above.

(e) Should ownership, control or occupancy of a dwelling for which a special exception has been issued at any time fail to meet the requirements of section 21-605.2(d), and if compliance has not been achieved within 60 days of the zoning administrator's notice of noncompliance, then the special exception shall become null and void.

(f) Prior to offering property for rental by transient visitors, the applicant shall provide to the zoning administrator:

- (1) Evidence of ownership as provided in section 21-605.2(d).
- (2) A copy of a general liability insurance policy in the name of the owner covering the rental of the property to visitors, with coverage of not less than \$500,000. Such insurance coverage must remain in place at all times while any part of the property is being offered for short-term rental.
- (3) A property management plan demonstrating how the short-term rental will be managed and how the impact on neighboring properties will be minimized shall be submitted to the Planning Department for review and approval as part of the permitting process. The plan shall include local

points of contact available to respond immediately to complaints, clean up garbage, manage unruly tenants and utility issues, etc. The contact numbers shall be provided to City staff, public safety officials and, if applicable, the HOA/POA of the subdivision. The plan must be provided as part of the rental contract.

(4) If the property is located within a subdivision governed by a homeowner's association/property owners association, the zoning administrator must receive written confirmation from the HOA/POA that the short-term rental is permitted pursuant to the subdivisions restrictive covenants.

(5) A copy of a business license issued by the Williamsburg Commissioner of the Revenue shall be provided to the zoning administrator not less than 30 days after the approval of the special exception but prior to occupancy by the transient visitor.

(g) The Board of Zoning Appeals shall determine if the property at issue meets the occupancy requirement, provides an adequate plan for managing the property, and shall determine if the property may be operated as a short-term rental consistent with the provisions of Sec. 21-97(f) and conditions contained herein.

(h) Special exceptions to operate a short-term rental shall be subject to the following conditions:

(1) Rentals are limited to owner-occupied single-family detached dwellings and the owner must be physically present at the property during any rental period.

(2) No more than one room in the principal dwelling may be rented to transient visitors, as defined in Sec. 21-605.2(b).

(3) The furnishing of meals is not permitted.

(4) No more than two transient visitors shall occupy a room at the same time, excluding minor children of the transient occupants, unless otherwise reduced by the requirements of the Uniform Statewide Building Code and all other applicable laws and regulations.

(5) The following parking requirements shall apply:

a. One off-street parking space shall be provided (as required by Article V, Parking), and shall be reserved for use by the occupants of the rental room.

b. The Board of Zoning Appeals, when ruling on the special exception, shall consider the location of the off-street parking and its impact on adjoining residences and the adjacent street(s). When necessary to

preserve the character of the surrounding neighborhood and streetscape, the board may prohibit the location of off-street parking in front yards and/or the street side yards for corner lots.

- d. Parking spaces and driveways shall be constructed of gravel, compacted stone, concrete, asphalt, brick or paving stones.
 - e. Parking spaces and driveways (inclusive of spaces for the single-family detached dwelling and the proposed room rental) shall not occupy more than 30 percent of a front or rear yard area, and shall not occupy more than 15 percent of the total lot area for lots having a lot area of 20,000 square feet or less; nor more than ten percent of the total lot area for lots having a lot area of more than 20,000 square feet. When applying for a special exception, existing parking spaces and driveways that are constructed of gravel, compacted stone, concrete, asphalt, brick or paving stones may be used to provide the required parking, even if they are not in compliance with these standards. All new parking spaces and driveways shall comply with these standards.
 - f. Parking shall be allowed only in driveways or parking spaces meeting these requirements, and shall be prohibited elsewhere on the lot.
- (6) Applicable provisions of the Uniform Statewide Building Code, and all other applicable laws and regulations, shall be met.
- (7) No property being used as a residential rental property may also be used as a short-term rental. Only the property owner and his or her family, as defined in Sec. 21-2, may reside at the dwelling along with transient visitors.
- (8) Property owners utilizing their properties as a short-term rental must keep a register of short-term rentals of the property. Said register shall be subject to inspection upon request of the zoning administrator, and application for a permit to engage in short-term rentals shall contain a written consent for such inspection. The name and addresses of all transient visitors occupying the short-term rental and the dates rented must be maintained in the register, whether or not that person is the person who paid the cost of the short-term rental or not. Said information must be maintained in said register for a period of two years.
- (9) Short-term rentals may not be occupied by the same transient visitors for a period of more than 30 days during any calendar year.
- (10) There shall be no visible evidence of the conduct of such short-term rentals on the outside appearance of the property.
- (11) Event rentals are not permitted.

- (12) A fully functional smoke detector and carbon monoxide detector must be installed on each floor of the dwelling.
- (13) The owner of a dwelling used for short-term rentals shall give the City written consent to inspect such dwelling upon a twenty-four hour notice to ascertain compliance with all the above performance standards.
- (14) All outdoor burning shall be in compliance with Chapter 5 of the Williamsburg City Code.
- (15) Owners of the short-term rental shall ensure that transient visitors comply with City ordinances, including but not limited to the City noise and nuisance ordinance. A copy of Chapter 12 of the City Code relative to noise must be provided at the short-term rental dwelling.

(i) It shall be unlawful to rent a room to transient visitors in any dwelling except as provided herein.

(j) Except as otherwise herein provided, a special exception as granted hereunder may be revoked for failure to comply with a required condition contained herein or for multiple violations on more than three occasions of any state or local laws, ordinances or regulations related to the rental of the room, consistent with Section 21-97(g).

EXCEPT, as here amended, the Williamsburg Code shall remain unchanged.

Adopted: February 14, 2019



Paul T. Freiling, Mayor

Attest: 
Debi Burcham, City Council Clerk