



## **PUBLIC NOTICE WILLIAMSBURG PLANNING COMMISSION**

The Williamsburg Planning Commission will hold a public hearing on December 18, 2013, 3:30 P.M. in the Council Chambers of the Stryker Building, 412 North Boundary Street, to consider the following:

**PCR #13-038:** Amend the Zoning Ordinance by revising the regulations for rental of rooms to visitors [Sec. 21-605(e)] to allow investor-owned single-family detached dwellings with full-time live-in managers to rent rooms to visitors in addition to owner-occupied single-family detached dwellings. Room rentals to visitors are only allowed along designated streets. Rental of up to four bedrooms are allowed with a special exception approved by the Board of Zoning Appeals, and rental of six bedrooms on one-acre or larger lots is allowed with a special use permit approved by City Council.

**PCR #13-039:** Amend the Conditional Zoning section of the Zoning Ordinance to update provisions on cash proffers [Sec. 21-77] and notice requirements for amending approved zoning proffers [Sec. 21-81] to reflect the latest changes made to the Virginia Code.

**PCR #13-040:** Amend the Site Plan section of the Zoning Ordinance to defined when an approved site plan becomes a final site plan [Sec. 21-777(b)(4)c.], based on recent changes to the Virginia Code.

**PCR #13-041:** Amend the Zoning Ordinance to correct cross references to the Virginia Code [Sec. 21-81 and Sec. 21-616].

Additional information is available at [www.williamsburgva.gov/publicnotice](http://www.williamsburgva.gov/publicnotice) or at the Planning Department (757) 220-6130, 401 Lafayette Street. Interested citizens are invited to attend this hearing and present their comments to Planning Commission.

If you are disabled and need accommodation in order to participate in the public hearing, please call the Planning Department at (757) 220-6130, (TTY) 220-6108, no later than 12:00 noon, Wednesday, December 11, 2013.

A handwritten signature in black ink that reads "Reed T. Nester". The signature is written in a cursive, flowing style.

Reed T. Nester  
Planning Director



## CITY OF WILLIAMSBURG

### MEMORANDUM

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**DATE:** November 21, 2013

**SUBJECT: PCR #13-038**  
**Room Rental to Visitor Regulation Modifications**

City Council at their September retreat requested staff and Planning Commission to investigate the possibility of modifying the regulations for room rental of bedrooms to visitors (B&Bs) in single-family detached dwellings by allowing the option of having a full-time live-in manager operate the business. Currently, the regulations require that a single-family detached dwelling be owner-occupied in order to rent rooms to visitors, and “owner-occupied” is defined under Section 21-605(b) of the Zoning Ordinance which would not allow a full-time live-in manager to operate the business. The proposed change allows a full-time live-in manager to operate a “room rental to visitors” business, provided that the owner of the property lives in the City.

Rental of bedrooms to visitors is permitted only in single-family detached dwellings located on or contiguous to specified major streets with a specific number of establishments allowed for each street, as listed below:

- a. Capitol Landing Road from Lafayette Street to Queen’s Creek – four are allowed and currently one exists.
- b. Henry Street between Lafayette Street and Mimosa Drive – two are allowed and currently one exists.
- c. Jamestown Road – 15 are allowed, six exist and two have the right to operate.
- d. Lafayette Street – three are allowed and none exist.
- e. Page Street – one is allowed and none exist.
- f. Richmond Road between Brooks Street and Virginia Avenue – ten are allowed and eight exist.

Nine other properties in the City rent rooms to roomers and are nonconforming.

Room rentals to visitors (up to four rooms) require approval by the Board of Zoning Appeals as a special exception use. With a lot size of one acre or more, City Council can approve the rental of six bedrooms with a special use permit. Both of these options require public hearings and notification of adjoining property owners. This same procedure would be required for investor-owned properties with full-time live-in managers, either for the establishment of a new business or a change from an owner-

occupied establishment to investor-owned establishment with a full-time live-in manager.

## **ANALYSIS**

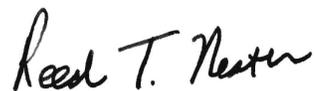
The areas that allow room rental to visitors (B&Bs) are along major streets that contain some of the larger homes in the City. Several of these have changed over time from owner-occupied rentals to visitors to rental housing. Allowing an investor-owned single-family detached dwelling to offer room rentals to visitors if there is a full-time live-in manager (provided that the owner of the property lives in the City) provides additional options for these large houses, and could make it more attractive to operate a B&B business instead of renting the house to a family or three or four unrelated persons.

Our existing 27 conforming and nonconforming B&Bs are typically very well maintained and relate well to their neighborhood and to our entrance corridors. Of these establishments, only one is not owner-occupied (The Cedars, 616 Jamestown Road).

Planning Commission needs to consider if extending this option to investor-owned properties with a full-time live-in manager (and with a requirement that the owner of the property lives in the City) helps to maintain or enhance the character of these corridors, or if it is detrimental to the residential character of these areas?

## **PLANNING COMMISSION PUBLIC HEARING**

The Planning Commission public hearing on this case is scheduled for the regular Planning Commission meeting on December 18.



Reed T. Nester, AICP  
Planning Director

**ORDINANCE #13-\_\_**  
**PROPOSED ORDINANCE #13-\_\_**

**AN ORDINANCE AMENDING CHAPTER 21, ZONING,  
ARTICLE IV. SUPPLEMENTAL DISTRICT REGULATIONS, SEC. 21-605. RENTAL  
OF BEDROOMS IN SINGLE FAMILY DWELLINGS TO ROOMERS AND VISITORS  
(PCR #13-038)**

These revisions to Chapter 21, Zoning, are intended to promote the health, safety and general welfare of the public, and to carry out the purpose and intent of Chapter 21 as stated in Sec. 21-1.

**BE IT ORDAINED** that Chapter 21, Zoning, Article IV, Supplemental District Regulations, Sec. 21-605, Rental of bedrooms in single family dwellings to roomers and visitors, subsection (e) *Rental of bedrooms to visitors* be amended to read as follows:

**Sec. 21-605. Rental of bedrooms in single-family detached dwellings to roomers and visitors**

(a) *Intent.* These regulations are established to allow the rental of bedrooms to roomers and visitors in single-family detached dwellings while at the same time preserving the residential character of the neighborhoods in which the dwellings are located. To these ends, bedroom rentals are limited to owner-occupied dwellings. Rentals to roomers, being largely residential in character, are allowed throughout residential districts; rentals to visitors, being more commercial in character, are allowed only along specified major streets to avoid bringing increased traffic and congestion by nonresidents into residential districts. In addition, rentals to visitors are limited to a minority of the single-family detached dwellings on the specified streets, with greater restrictions placed on the minor corridors, in order to ensure that all of the corridors maintain their residential character.

(b) *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 stockholders of at least 51 percent of the individual outstanding voting stock of a corporation, chartered in the Commonwealth of Virginia, or the members of a limited liability company chartered in the Commonwealth of Virginia, who own the controlling interest therein, which corporation or limited liability company owns full fee simple title to the dwelling and the lot on which it is located.

(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. 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:
  1. 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;
  2. 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
  3. 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 all of said members continue to occupy the dwelling and lot as their primary residence shall be established by their affidavits.
- d. If a change in fee simple ownership of the dwelling and lot has occurred since the last annual certification, than [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(b)(2)c. 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 this section 21-605(b), 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.

(c) *Rental of one bedroom to one roomer.* The rental of one bedroom to one roomer shall be allowed by right, subject to the following:

- (1) Rentals shall be limited to owner-occupied single-family detached dwellings.
- (2) The furnishing of meals for compensation to such rental occupant by a member of the family is also permitted.
- (3) No additional off-street parking shall be required.
- (4) Applicable provisions of the Uniform Statewide Building Code, and all other applicable laws and regulations, shall be met.

(d) *Rental of bedrooms to more than one roomer.* The rental of bedrooms to more than one roomer 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:

- (1) Rentals shall be limited to owner-occupied single-family detached dwellings.
- (2) No more than two bedrooms in the principal dwelling may be rented to roomers.
- (3) No persons other than members of the immediate family residing on the premises shall be involved in the rental of the permitted bedroom(s).
- (4) The furnishing of meals for compensation to permitted occupants by a member of the family is also permitted.
- (5) No more than two roomers shall occupy a bedroom at the same time, unless otherwise reduced by the requirements of the Uniform Statewide Building Code and all other applicable laws and regulations.
- (6) The following parking requirements shall apply:
  - a. One off-street parking space shall be provided for each roomer (as required by Article V, Parking), and shall be reserved for use by the occupants of the rental bedrooms.
  - 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.

- c. Parking shall be screened from adjoining residences and street(s) by an element of the building, fence, wall or landscape buffer, and shall be approved by the board of zoning appeals when ruling on the special exception.
  - d. Parking spaces and driveways shall be constructed of gravel, compacted stone, concrete, asphalt, brick or paving stones.
  - e. Parking spaces and driveways (for both the single-family detached dwelling and the proposed bedroom rentals) 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.
- (7) Applicable provisions of the Uniform Statewide Building Code, and all other applicable laws and regulations, shall be met.
- (8) The application for a special exception shall include: a floor plan showing the location of each bedroom to be rented, including its dimensions and floor area, the location of exits and the location of smoke detectors; and a minor site plan in accordance with Article VII, Site Plans, showing the location of the parking to be provided, the location of proposed screening and landscaping, and lot coverage of the driveways and parking areas.
- (9) It shall be a violation of this section to advertise for rent to roomers any bedrooms exceeding the number of bedrooms authorized herein or which are determined by the zoning administrator to be legally nonconforming.

(e) *Rental of bedrooms to visitors.* The rental of bedrooms to one or more visitors shall be contingent upon approval as either a special exception use by the board of zoning appeals in accordance with section 21-97(f), or as a special use permit by the city council in accordance with article II, division 2, and subject to the following:

- (1) Rentals shall be limited to:
  - a. Owner-occupied single-family detached dwellings; or
  - b. Non-owner-occupied single-family detached dwellings with a full-time live-in manager (which may include the manager's family) residing on the premises, provided, however, that a full-time live-in non-owner manager shall only be permitted to reside on the premises in lieu of an owner occupant if the owner of the single-family detached dwelling, as defined by section 21-605(b)(1)a. or the stockholders or members as defined by section 21-605(b)(1)b. also resides in the City of Williamsburg.
  - c. A change in occupancy between categories 21-605(e)(1)a. and 21-605(e)(1)b., as described above, shall require the issuance of a new special exception or special use permit.
- (2) No more than four bedrooms in the principal dwelling may be rented to visitors with a special exception approved by the board of zoning appeals. With a special use permit approved by the city council, no more than six bedrooms may be rented to visitors in the principal dwelling, with a minimum lot size of one acre (43,560 square feet).
- (3) No persons other than members of the immediate family residing on the premises, or the full-time live-in manager and the manager's immediate family as provided in section 21-605(e)(1)(b) above, shall be involved in the rental of the permitted bedroom(s).
- (4) The only meal that may be provided is breakfast, and it shall only be served to visitors renting bedrooms in the dwelling. Breakfast shall be furnished only by a member of the immediate family residing on the premises, or by the full-time live-in manager and the resident manager's immediate family as provided in section 21-605(e)(1)(B) above.
- (5) No more than two visitors shall occupy a bedroom at the same time, except for any child under 16 years of age, unless otherwise reduced by the requirements of the Uniform Statewide Building Code and all other applicable laws and regulations.
- (6) Rental of bedrooms to visitors shall be permitted only in single-family detached dwellings located on lots contiguous to the major streets or portions thereof listed below, and only if the single-family detached dwelling and its front door faces the major street. The number of single-family detached dwellings allowed to rent bedrooms to visitors is limited to a percentage of the single-family detached dwellings in the city existing on each street or portion of street listed below, as of February 8, 1996, that meet the above listed requirements, as follows: 45 percent for the portion of Richmond Road between Brooks Street and Virginia Avenue; 45 percent for all of Jamestown Road; and ten percent for all other streets or portions of streets listed below. The major streets and the

number of single-family detached dwellings allowed to rent bedrooms to visitors are:

- a. Capitol Landing Road from Lafayette Street to Queen's Creek — four single-family detached dwellings are allowed to rent bedrooms to visitors.
- b. Henry Street between Lafayette Street and Mimosa Drive — two single-family detached dwellings are allowed to rent bedrooms to visitors.
- c. Jamestown Road — 15 single-family detached dwellings are allowed to rent bedrooms to visitors.
- d. Lafayette Street — three single-family detached dwellings are allowed to rent bedrooms to visitors.
- e. Page Street — one single-family detached dwelling is allowed to rent bedrooms to visitors.
- f. Richmond Road between Brooks Street and Virginia Avenue — ten single-family detached dwellings are allowed to rent bedrooms to visitors.

(7) Vehicular access shall be permitted only from the streets listed above, or from a side street intersecting with a listed street. When necessary to preserve the character of the surrounding neighborhood and streetscape, the board may prohibit vehicular access from a side street intersecting with a listed street.

(8) The following parking requirements shall apply:

- a. One off-street parking space shall be provided for each bedroom rented to visitors (as required by Article V, Parking), and shall be reserved for use by the occupants of the rental bedrooms.
- b. The board of zoning appeals, when ruling on the special exception, and the city council when ruling on the special use permit, 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 or the council may prohibit the location of off-street parking in front yards and/or the street side yards for corner lots.
- c. Parking shall be screened from adjoining residences and adjacent streets(s) by an element of the building, fence, wall or landscape buffer, and shall be approved by the board of zoning appeals when ruling on the special use permit, or by city council when ruling on the special use permit.
- d. Parking spaces and driveways shall be constructed of gravel, compacted stone, concrete, asphalt, brick or paving stones.
- e. Parking spaces and driveways (for both the single-family detached dwelling and the proposed bedroom rentals) 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 or special use permit, 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.

1. As part of a request for a special use permit for the rental of more than four bedrooms [which requires a minimum lot size of one acre (43,560 square feet)], city council may allow parking spaces and driveways to occupy up to 15 percent of the total lot area. This shall supersede the restrictions stated in section 21-705.1(b).
  - f. Parking shall be allowed only in driveways or parking spaces meeting these requirements, and shall be prohibited elsewhere on the lot.
- (9) Applicable provisions of the Uniform Statewide Building Code, and all other applicable laws and regulations, shall be met.
  - (10) The application for a special exception shall include: a floor plan showing the location of each bedroom to be rented, including its dimensions and floor area, the location of exits and the location of smoke detectors; and a minor site plan in accordance with Article VII, Site Plans, showing the location of the parking to be provided, the location of proposed screening and landscaping, and lot coverage of the driveways and parking areas.
  - (11) It shall be a violation of this section to advertise for rent to visitors any bedroom exceeding the number of bedrooms authorized herein or which are determined by the zoning administrator to be legally nonconforming.
  - (12) The board of zoning appeals shall not make a final decision on a proposal to rent bedrooms to visitors until it has received a recommendation from the planning commission's site plan review committee on the minor site plan.
  - (13) Bedrooms presently rented to roomers shall not be rented to visitors unless all requirements of this section 21-605 are met, which includes approval as a special exception use by the board of zoning appeals.
  - (14) The owner-occupant or the full-time live-in manager of the single-family dwelling renting bedrooms to visitors shall keep records of all bedrooms rented, which shall be submitted to the zoning administrator for the previous quarter on April 20, July 20, October 20 and January 20 of each year, and at any other time upon the request of the zoning administrator. The records shall be submitted on a form provided by the zoning administrator, and shall include each bedroom rented, the date rented, the number of persons occupying the

bedroom, the number of motor vehicles parked on the premises by the occupant(s) of the bedroom, and the names of all persons residing in the dwelling for the reporting period. The owner-occupant or the full-time live-in manager shall certify by affidavit at the bottom of each page that the records are true and correct and represent all bedrooms rented and the occupants thereof for the stated time period.

- (15) A special exception approved by the board of zoning appeals, or a special use permit approved by the city council, shall expire 180 days from the date of the approval unless the applicant has obtained a certificate of occupancy and a business license for the rental of rooms to visitors.
- (16) A special exception approved by the board of zoning appeals, or a special use permit approved by the city council, shall remain valid only as long as there are at least 100 bedroom rental nights each calendar year. If there are less than 100 bedroom rental nights in a calendar year, the special exception approval shall expire. If less than a full calendar year remains following the approval of the special exception by the board of zoning appeals or a special use permit approved by the city council, the required bedroom rental nights shall be prorated based upon the portion of the calendar year remaining. A bedroom rental night is defined as the rental of an individual bedroom for one night. These restrictions shall not to apply to the rental of bedrooms to visitors that were approved by the board of zoning appeals prior to February 8, 1996, or which were determined by the zoning administrator to have been legally nonconforming as of February 8, 1996.
- (17) Any special exception or special use permit granted to a single-family detached dwelling and lot pursuant to this section shall become null and void if within any 48-month period a court of competent jurisdiction has issued two injunctions arising out of violations of such special exception or special use permit, or of any provision of this section 21-605, to the same record owner of such dwelling and lot or to one or more of the same individuals identified in the zoning administrator's records as regularly occupying the subject dwelling as their residence. The special exception or special use permit shall, however, not become null and void until all appeal periods have run regarding such injunctions.

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

Adopted: \_\_\_\_\_

\_\_\_\_\_  
Clyde A. Haulman, Mayor

Attest: \_\_\_\_\_  
Donna Scott, City Council Clerk



# CITY OF WILLIAMSBURG

## MEMORANDUM

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**TO: Planning Commission**

**DATE: November 14, 2013**

**SUBJECT: PCR #13-039**  
**Amend Conditional Zoning regulations on cash proffers and notice requirements**

**PCR #13-040**  
**Amend Site Plan regulations to define a final site plan**

**PCR #13-041**  
**Correct Zoning Ordinance cross-references to the Virginia Code**

These three cases make minor changes to the City's Zoning Ordinance based on recent changes made to the Virginia Code. It is mandatory that the City brings its ordinances into compliance with the Virginia Code changes.

**PCR #13-039** places limitations on the use of cash proffers made to the City, and allows City Council to waive public hearing and notice requirements for amending proffers if the change does not affect conditions of use or density; or in order to reduce, suspend, or eliminate outstanding cash proffer payments for residential construction calculated on a per-dwelling-unit or per-home basis that have been agreed to, but unpaid, by any landowner.

**PCR #13-040** defines what constitutes a final site plan. A site plan is final if it has been approved by the Planning Commission (regular site plan) or Zoning Administrator (minor site plan), and if the only remaining requirements to obtain a building permit are posting or required bonds and escrows or the submission of any other administrative documents, agreements, deposits or fees required in order to issue the permit.

**PCR #13-041** corrects two references to the Virginia Code pertaining to required public hearings [Sec. 21-81], and exterior building maintenance [Sec. 21-616]. The substance of these two sections is not affected by this change.

### **PLANNING COMMISSION PUBLIC HEARING**

The Planning Commission public hearing on these cases is scheduled for the regular Planning Commission meeting on December 18.

*Reed T. Nester*  
Reed T. Nester, AICP  
Planning Director

**ORDINANCE #13-\_\_**  
**PROPOSED ORDINANCE #13-\_\_**

**AN ORDINANCE AMENDING CHAPTER 21, ZONING, ARTICLE II,  
ADMINISTRATION, DIVISION 4, CONDITIONAL ZONING, SECS. 21-77 AND 21-81,  
PERTAINING TO CASH PROFFERS AND WAIVER OF NOTICE AND PUBLIC  
HEARING AS TO CERTAIN PROFFER AMENDMENTS  
(PCR #13-039)**

**WHEREAS**, at its 2013 Session the Virginia General Assembly enacted House Bill 2239 that adds a new subparagraph D of Virginia Code § 15.2-2303.2 to place limitations on the use of cash deposited with localities pursuant to cash proffers; and

**WHEREAS**, House Bill 2265 also enacted at such 2013 General Assembly session modifies certain notice requirements of Virginia Code section 15.2-2302 relative to amendment of approved zoning proffers; and

**WHEREAS**, it is necessary to amend Williamsburg's zoning ordinance to reflect such amendments as well as to bring City Code section 21-77 into conformity with other provisions of said Virginia Code sections;

**BE IT ORDAINED** that Chapter 21, Zoning, Article II, Administration, Division 4, Conditional Zoning be amended to read as follows:

**Sec. 21-77. Proffer of conditions.**

(a) Prior to a public hearing before the city council, in accordance with the provisions of Division 3, Amendments, of this article, the owner or owners of property sought to be rezoned under the provisions of this chapter may voluntarily proffer in writing reasonable conditions, in addition to the regulations provided for in the zoning district or zone sought in the rezoning petition. Said conditions shall be proffered as a part of the requested rezoning or amendment to the official zoning map. Conditions so proffered are subject to the following limitations:

- (1) The rezoning itself must give rise for the need for the conditions;
- (2) Such conditions shall have a reasonable relation to the rezoning;
- (3) All such conditions shall be in conformity with the city's comprehensive plan;
- (4) No proffer shall be accepted by the city unless it has adopted a capital improvement program pursuant to Virginia Code, § 15.2-2239. In the event proffered conditions include the dedication of real property or payment of cash, such property shall not transfer and such payment of cash shall not be made until the facilities for which such property is dedicated or cash is tendered are included in the capital improvement program; provided, that nothing herein shall prevent the city from accepting proffered conditions which are not normally included in such capital improvement program;
- (5) If proffered conditions include the dedication of real property or the payment of cash, the proffered conditions shall provide for the disposition of such property or cash payment in the event the property or cash payment is not used for the purpose for which proffered;

- (6) Reasonable conditions shall not include, however, conditions that impose upon the applicant the requirement to create a property owners' association under Chapter 26 (§ 55-508 et seq.) of Title 55, Code of Virginia, which includes an express further condition that members of a property association pay an assessment for the maintenance of public facilities owned in fee by a public entity, including open space, parks, schools, fire departments, and other public facilities not otherwise provided for in § 15.2-2241, Code of Virginia; however, such facilities shall not include sidewalks, special street signs or markers, or special street lighting in public rights-of-way not maintained by the city.
- (7) Payments of cash proffered on a per-dwelling unit or per-home basis for residential construction shall be collected or accepted only after completion of the final inspection and prior to the time of the issuance of any certificate of occupancy for the subject property. In accordance with Virginia Code § 15.2-2303.1:1 C, this paragraph (7) shall expire on July 1, 2017.

(b) Once proffered and accepted as an amendment to the zoning classification of such property, such conditions shall continue in full force and effect until a subsequent amendment changes the zoning classifications of the property; provided, however, that unless expressly repealed, such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance. The above notwithstanding pursuant to petition of the owner of land that is subject to approved proffers, city council may approve or amend such proffers in accordance with procedures prescribed in Virginia Code section 15.2-2302.

(c) Proffered cash payments and expenditures.

- (1) For each fiscal year the city shall, (i) include in its capital improvement program created pursuant to Virginia Code § 15.2-2239, or as an appendix thereto, the amount of all proffered cash payments received during the most recent fiscal year for which a report has been filed pursuant to subsection (3), and (ii) include in its annual capital budget the amount of proffered cash payments projected to be used for expenditures or appropriated for capital improvements in the ensuing year.
- (2) No proffered cash payment shall be used for any capital improvement to an existing facility, such as a renovation or technology upgrade, that does not expand the capacity of such facility or for any operating expense of any existing facility such as ordinary maintenance or repair.
- (3) Within three months of the close of each fiscal year the city shall report to the Commission on Local Government the following information for the preceding fiscal year:
  - a. The aggregate dollar amount of proffered cash payments collected by the city;
  - b. The estimated aggregate dollar amount of proffered cash payments that have been pledged to the city and which pledges are not conditioned on any event other than time; and

c. The total dollar amount of proffered cash payments expended by the city, and the aggregate dollar amount expended in each of the following categories:

<u>Schools</u>	\$ _____
<u>Road and other Transportation Improvements</u>	\$ _____
<u>Fire and Rescue/Public Safety</u>	\$ _____
<u>Libraries</u>	\$ _____
<u>Parks, Recreation, and Open Space</u>	\$ _____
<u>Water and Sewer Service Extension</u>	\$ _____
<u>Community Centers</u>	\$ _____
<u>Stormwater Management</u>	\$ _____
<u>Special Needs Housing</u>	\$ _____
<u>Affordable Housing</u>	\$ _____
<u>Miscellaneous</u>	\$ _____
<u>Total dollar amount expended</u>	\$ _____

(4) For each fiscal year thereafter during which the city did not accept any proffered cash payments during the preceding fiscal year the city shall within three months of the close of each fiscal year so notify the Commission on Local Government.

**AND BE IT FURTHER ORDAINED** that Chapter 21, Zoning, Article II, Administration, Division 4, Conditional Zoning, section 21-81 be amended to read as follows:

**Sec. 21-81. Amendments and variations of conditions.**

There shall be no amendment or variation of any condition created pursuant to the provisions of this division until after a public hearing before city council advertised pursuant to the provisions of Code of Virginia, § ~~15.1-434~~ 15.2-2204, unless such public hearing or notice are waived by city council as permitted by Virginia Code § 15.2-2302 B or E.

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

Adopted: \_\_\_\_\_

\_\_\_\_\_  
Clyde A. Haulman, Mayor

Attest: \_\_\_\_\_  
Donna Scott, City Council Clerk

**ORDINANCE #13-\_\_**  
**PROPOSED ORDINANCE #13-\_\_**

**AN ORDINANCE AMENDING CHAPTER 21, ZONING, ARTICLE VII,  
SITE PLANS, SEC. 21-777, PERTAINING TO FINAL SITE PLANS  
(PCR #13-040)**

**WHEREAS**, at its 2013 Session the Virginia General Assembly enacted House Bill 2238 that amends paragraph A of Virginia Code § 15.2-2261 to define when an approved site plan becomes a final site plan; and

**WHEREAS**, it is necessary to amend Williamsburg’s zoning ordinance accordingly;

**BE IT ORDAINED** that Chapter 21, Zoning, Article VII, Site Plans, Section 21-777(b)(4)c. be amended to read as follows:

**ARTICLE VII. SITE PLANS**

**Sec. 21-777. In general.**

(b) *Site plan administration.*

(4) Approval of site plans

- a. A decision to approve, approve with conditions or disapprove a site plan shall be made by the planning commission.
- b. When denying a site plan, the planning commission shall state specific reasons for the denial.
- c. Approval of a **final** site plan shall ~~expire~~ **be valid for a period of** five years after the date of approval, unless a building permit has been obtained for construction; or, if a building permit has been issued and construction has not commenced, upon the expiration of the building permit. **A site plan shall be deemed final once it has been reviewed and approved by the planning commission, per section 21-777(b), or by the zoning administrator or his designee in the case of a minor site plan per section 21- 777(a) if the only requirements remaining to be satisfied in order to obtain a building permit are the posting of any bonds and escrows or the submission of any other administrative documents, agreements, deposits, or fees required by the city in order to obtain the permit. However, any fees that are customarily due and owing at the time of review of the site plan shall be paid in a timely manner.** No change or amendment to this chapter adopted subsequent to the date of approval of the site plan shall adversely affect the right of the developer to commence and complete the development in accordance with the approved site plan unless the change or amendment is required to comply with state law or there has been a mistake, fraud or a change in circumstances substantially affecting the public health, safety or welfare. The above

notwithstanding, in accordance with Virginia Code § 15.2-2209.1B, any valid special exception, special use permit, or conditional use permit outstanding as of January 1, 2011, and related to new residential or commercial development, any deadline in the exception permit, or in the zoning ordinance that requires the landowner or developer to commence the project or to incur significant expenses related to improvements for the project within a certain time, shall be extended until July 1, 2017, or longer as agreed to by the city. The provisions of this subsection shall not apply to any requirement that a use authorized pursuant to a special exception, special use permit, conditional use permit, or other agreement or zoning action be terminated or ended by a certain date or within a set number of years. Such extension shall not be effective unless any unreleased performance bonds and agreements or other financial guarantees of completion of public improvements in or associated with the proposed development are continued in force.

- d. When a site is being developed in phases, the site plan shall remain valid so long as substantial construction work does not stop for more than two years.

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

Adopted: \_\_\_\_\_

\_\_\_\_\_  
Clyde A. Haulman, Mayor

Attest: \_\_\_\_\_  
Donna Scott, City Council Clerk

**ORDINANCE #13-\_\_\_\_**  
**PROPOSED ORDINANCE #13-\_\_\_\_**

**AN ORDINANCE TO AMEND VARIOUS SECTIONS OF THE ZONING ORDINANCE  
TO CORRECT CROSS REFERENCES TO THE VIRGINIA CODE  
(PCR #13-041)**

**WHEREAS**, Title 15.1 of the Virginia Code was recodified as Title 15.2, effective December 1, 1997 and as the result of recodification various sections of Title 15.1, although not changed in substance were assigned new section numbers; and

**WHEREAS**, various sections of the Zoning Ordinance make specific reference to sections of the Virginia Code; and

**WHEREAS**, following recodification of Virginia Code Title 15.1, various sections of the Williamsburg Code have been amended to reflect the new Virginia Code section numbers assigned in recodification, but other City Code sections have not been appropriately updated; and

**WHEREAS**, it is desirable to update such City Code sections to properly reflect the pertinent sections of Virginia Code Title 15.2;

**BE IT ORDAINED** that the following sections of the Zoning Ordinance are hereby amended to read as follows:

**Sec. 21-81. Amendments and variations of conditions.**

There shall be no amendment or variation of any condition created pursuant to the provisions of this division until after a public hearing before city council advertised pursuant to the provisions of Code of Virginia, § ~~15.1-431~~ 15.2-2204.

**Sec. 21-616. Building maintenance regulations.**

(a) *Intent*. These regulations, as allowed by § ~~15.1-486~~ 15.2-2280 of the Code of Virginia (1950), as amended, are established to supplement Volume II, Building Maintenance Code, of the Virginia Uniform Statewide Building Code, and to apply in those instances where the structural integrity of a building is not threatened, but where the lack of basic exterior maintenance will have a detrimental effect on adjacent properties and on surrounding neighborhoods by causing property devaluation and the spread of urban blight. Therefore the following exterior building maintenance requirements are in addition to the requirements of Volume II, Building Maintenance Code, of the Virginia Uniform Statewide Building Code.

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

Adopted: \_\_\_\_\_

\_\_\_\_\_  
Clyde A. Haulman, Mayor

Attest: \_\_\_\_\_  
Donna Scott, City Council Clerk