



**PUBLIC NOTICE
WILLIAMSBURG CITY COUNCIL**

The Williamsburg City Council will hold a public hearing on Thursday, February 13, 2014, 2:00 p.m. in 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 owner-occupied single-family detached dwellings renting rooms to visitors to have one non-resident employee, and to allow investor-owned single-family detached dwellings with full-time live-in managers to rent rooms to visitors provided that the owner of the single-family detached dwelling lives in the City. 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.

Additional information is available at 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 the Council.

If you are disabled and need accommodation in order to participate in the public hearing, please call the City Manager's office at (757) 220-6100, (TTY) 220-6108, no later than 12:00 noon, Thursday, February 6, 2014.

Lisa C. Judkins
City Council Clerk



CITY OF WILLIAMSBURG

MEMORANDUM

DATE: January 22, 2014

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.

Planning Commission held a public hearing on December 18, 2013 on a proposed change to allow 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. Following the public hearing and an extensive discussion, the Commission tabled a decision until the January 15 meeting to allow time for the City Attorney to address the legal questions of Health Department regulations and how they would be applied and to allow Mr. Nester to check with City Council about the ancillary pieces that may provide additional revenue and opportunities for the bed and breakfasts.

CONSIDERATION OF ADDITIONAL BED AND BREAKFAST ISSUES

City Council was asked about Planning Commission's consideration of additional changes as part of the current review, and City Council responded that it would like Planning Commission to specifically focus on the issue of whether or not the regulations for bed and breakfasts should be changed to also allow operation by a full-time live-in manager. City Council felt that other issues could be discussed by the Commission concurrently, but should be considered separately. Planning Commission will hold a work session on Wednesday, February 26, at 4:00 p.m. in the third floor conference room at the Municipal Building to discuss possible additional changes to the room rental to visitors (bed and breakfast) regulations, such as allowing bed and breakfasts to have small weddings, serving dinners as well as breakfasts, and hosting wedding showers, business meetings and other revenue producing events.

CURRENT REGULATIONS

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 visitors 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 (bed and breakfasts) are along major streets that contain some of the larger homes in the City. Several of these have changed over time from owner-occupied bed and breakfasts 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 bed and breakfast business instead of renting the house to a family or three or four unrelated persons. An additional option that could be considered, and which was raised at the December public hearing, is to also allow an owner-occupied bed and breakfast to have one non-resident employee to manage or assist in the running of the bed and breakfast.

If an owner-occupied bed and breakfast were allowed to have an employee to assist in the running of the business, it would still be considered an owner-occupied dwelling for building code and Virginia Department of Health regulations. However, a non-owner-occupied bed and breakfast will have to meet different building code and health department requirements, which would be reviewed as part of the special exception or

special use permit process. A non-owner occupied bed and breakfast would be in a different building code use group than an owner-occupied business, which could require a sprinkler system and ADA accessibility improvements. A non-owner-occupied bed and breakfast would be classified by the Health Department as a restaurant and would likely require, according to the health department, "... at a minimum, installation of a hand basin, three-compartment sink (no residential dish washers), mop sink and possibly a food sink." For clarity, we have added in Sec. 21-605(d)(7) on page four of the proposed ordinance that applicable provisions of the Virginia Department of Health regulations shall be met.

Our existing 27 conforming and nonconforming bed and breakfasts 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), and/or allowing an owner-occupied bed and breakfast to have a non-resident employee, helps to maintain or enhance the character of these corridors, or if it is detrimental to the residential character of these areas?

PLANNING COMMISSION RECOMMENDATION

Planning Commission held a public hearing on December 18, and four persons spoke at the hearing. The Commission tabled action on the proposal until January 16 to allow for further analysis and discussion. On January 16, Planning Commission recommended to City Council, by a vote of 7-0, that the regulations be revised to allow owner-occupied single-family detached dwellings renting rooms to visitors to have one non-resident employee, and to allow investor-owned single-family detached dwellings with full-time live-in managers to rent rooms to visitors provided that the owner of the single-family detached dwelling lives in the City, as detailed in Proposed Ordinance #14-08.



Reed T. Nester, AICP
Planning Director

ORDINANCE #14-__
PROPOSED ORDINANCE #14-08

**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; which may have one non resident employee; 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, an authorized employee for an owner-occupied single-family detached dwelling as provided in section 21-605(e)(1)(a) above, 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, an authorized employee for an owner-occupied single-family detached dwelling as provided in section 21-605(e)(1)(a) above, 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, [Virginia Department of Health regulations](#), 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: February 13, 2014

Clyde A. Haulman, Mayor

Attest: _____
Lisa C. Judkins, City Council Clerk