



## **PUBLIC NOTICE WILLIAMSBURG PLANNING COMMISSION**

The Williamsburg Planning Commission will hold a public hearing on May 14, 2014, 3:30 P.M. in the Third Floor Conference Room at the Williamsburg Municipal Building, 401 Lafayette Street, to consider the following:

**PCR #14-009:** Amend the Zoning Ordinance to revise the regulations for Room Rentals to Visitors (Sec. 21-605) and Bed & Breakfast establishments (Sec. 21-605.1). The proposed changes include (1) creating a new section for Bed & Breakfast establishments; (2) allowing an owner-occupied Bed & Breakfast to have a full-time live-in manager; (3) allowing meals other than breakfast to be served; (4) allowing meals to be served to guests of persons staying at the Bed & Breakfast; (5) allowing weddings, receptions and other special events by-right at double the capacity of the Bed & Breakfast and limited to Bed & Breakfasts located on the existing six designated major streets; and (6) allowing weddings, receptions and other special events for up to 50 persons with a special exception approved by the Board of Zoning Appeals and limited to Bed & Breakfasts located on the existing six designated major streets. Additional minor changes are also proposed. All changes are detailed in the proposed ordinance.

**PCR #14-011:** Request of Riverside Healthcare Association, Inc. and Quarterpath Williamsburg, LLC, to amend the ED Economic Development District in the Zoning Ordinance to add duplex dwellings and attached duplex dwellings as permitted uses, to revise side and rear yard requirements, and to revise parking requirements in the ED Economic Development District [Secs. 21-2, 21-362(1)a., 21-366, 21-367(2) and (3), 21-370(3) and 21-712].

**PCR #14-013:** Amend the Zoning Ordinance to revise Article VIII. Chesapeake Bay Preservation. These revisions are in conjunction with the required updating and revision of the City's Stormwater Management Plan and Ordinance.

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, May 7, 2014.

  
Reed T. Nester  
Planning Director



CITY OF WILLIAMSBURG  
MEMORANDUM

---

**TO: Planning Commission**

**DATE: April 17, 2014**

**SUBJECT: PCR #14-009**  
**Revised regulations for Room Rentals to Visitors and for Bed and Breakfast establishments**

Planning Commission held a work session to review the regulations for bed and breakfast establishments on Wednesday, February 26. The discussion was continued at the March 19 and April 16 regular meetings. Based on the consensus reached by the Commission at these meetings, a proposed ordinance has been drafted to amend the existing regulations for room rentals to roomers and for bed and breakfast establishments (formerly room rentals to visitors). The changes are summarized below.

**DEFINITION**

A definition has been added for “bed and breakfast establishment,” replacing the previous description of “room rentals to visitors.”

*Bed and breakfast establishment* means a detached dwelling in which, for compensation, meals and overnight accommodations are provided for visitors. The detached dwelling shall be occupied by the owner-occupant and/or a full-time live-in manager. Activities such as weddings, receptions and other special events may be allowed with a supplemental special exception.

Because of this change, the references to “room rentals to visitors” have been revised for the RS-1, RS-2, RS-3, RM-1, RM-2, RDT, LB-1, LB-3, B-1, MS, and PDR Districts.

**SEPARATE SECTION FOR ROOM RENTALS TO ROOMERS**

The existing Sec. 21-605, which regulated “rental of bedrooms in single-family detached dwellings to roomers and visitors” has been revised to only deal with “rental of bedrooms in single-family detached dwellings to *roomers*.”

**NEW SECTION FOR BED AND BREAKFAST ESTABLISHMENTS**

A new Sec. 21-605.1 has been created specifically for “bed and breakfast establishments.” This section includes the following, which are detailed in the attached ordinance:

1. A new statement of intent [Sec. 21-605.1(a)]:

*Intent.* These regulations are established to allow the operation of bed and breakfast establishments along the city's entrance corridors while preserving the residential character of the neighborhoods in which they are located. By limiting the location of bed and breakfast establishments only along specified entrance corridors, bringing increased traffic and congestion by nonresidents into residential districts is avoided. In addition, bed and breakfast establishments are limited to a minority of the houses on the specified streets in order to ensure that all of the corridors maintain their residential character.

2. Definition of "owner-occupied bed and breakfast establishment" [Sec. 21-605.1(b)], which is identical to the previous definition.

3. Basic requirements for bed and breakfast establishments:

a. Special exception from Board of Zoning Appeals required for 1-4 bedrooms. [Sec. 21-605.1(c) and Sec. 21-605.1(c)(2)]

b. Special use permit from City Council required for 5 or 6 bedrooms (minimum one acre lot required). [Sec. 21-605.1(c) and Sec. 21-605.1(c)(2)]

c. Bed and breakfast establishments may be:

i. Owner-occupied and may have either a full-time live-in manager (which may include the manager's family) or one non-resident employee. [Sec. 21-605.1(c)(1)a.]

ii. Non-owner-occupied with a full-time live-in manager residing on the premises (which may include the manager's family and/or one non-resident employee), provided that the owner of the bed and breakfast establishment resides in the City. [Sec. 21-605.1(c)(1)b.]

iii. A change from an owner-occupied establishment to a non-owner-occupied establishment will require a new special exception or special use permit.

d. Operation of the bed and breakfast establishment is limited to:

i. Owner-occupied bed and breakfast establishment - the members of the immediate family living on the premises, a full-time live-in manager (including the manager's family) or one non-resident employee. [Sec. 21-605.1(c)(3)]

ii. Non-owner-occupied bed and breakfast establishment - a full-time live-in manager (including the manager's family and/or one non-resident employee). [Sec. 21-605.1(c)(3)]

- e. Meals may be served to visitors renting bedrooms in the bed and breakfast establishment, or to the guests of the visitors. The maximum number of guests that may be served are two guests for each authorized bedroom (double the capacity of the bed and breakfast establishment). A letter from the Virginia Department of Health indicating compliance with their "food establishment" regulations must be submitted with an application for a special exception or special use permit. ***If guests who are not staying at the bed and breakfast establishment are served, a commercial kitchen will be required if there are more than 18 guests served. If meals other than breakfast are served, a commercial kitchen will be required. If it is a non-owner-occupied bed and breakfast establishment, a commercial kitchen will be required. These are Virginia Department of Health requirements.***
- f. Weddings, receptions and other special events are allowed subject to the following requirements [Sec. 21-605.1(c)(5)]:
  - i. Limited to bed and breakfast establishments located on the designated major streets.
  - ii. The maximum number of guests allowed by-right is double the capacity of the bed and breakfast establishment, based on an occupancy of two persons per bedroom (16 guests for a 4 bedroom establishment; 24 guests for a 6 bedroom establishment).
  - iii. The maximum number of guests allowed with a special exception from the Board of Zoning Appeals shall be 50, and subject to the following requirements:
    - 1. For events above the by-right capacity, there shall be no more than one per day, or two in any seven-day period. A wedding ceremony and reception shall be considered one event.
    - 2. A parking plan shall be submitted and approved as part of the special exception process.
    - 3. When food service is proposed, and letter from the Virginia Department of Health indicating compliance with their food establishment regulations shall be submitted as part of the special exception application.
    - 4. The authorization for additional guests is valid so long as the approval for the bed and breakfast establishment is valid.
  - iv. Buildings or tents used for weddings, receptions and special events shall comply with the Uniform Statewide Building Code and Fire Prevention Code. Tents shall be removed within 48 hours of the event.
  - v. Events shall be between 10:00 a.m. and 10:00 p.m. Set-up and take-down shall be no earlier than 8:00 a.m. and no later than 11:00 p.m.
  - vi. Exterior lighting limited to no more than 0.1 footcandles at the property line.

- vii. Events are subject to all requirements of the City's Noise Control ordinance. [Article V. Noise Control of the Williamsburg Code]
- viii. When food service is provided, approval must be obtained from the Virginia Department of Health.
- ix. Prior to approval for hosting weddings, receptions and special events, a certificate of occupancy shall be issued by the Williamsburg Codes Compliance Division. **Hosting these events, depending on the actual size and activity, could change the building code use group for the bed and breakfast (normally R-1 Residential) to A (Assembly) or B (Business) use group. This could require modifications of the house for ADA accessibility (including parking spaces), for fire and life-safety requirements (sprinklers, exit ways, fire walls, etc.), and for increased or improved bathroom facilities.**
- g. Bed and breakfast establishments are limited to location on the major streets listed in the ordinance [Sec. 21-605.1(c)(6)]:
  - i. Capitol Landing Road from Lafayette Street to Queen's Creek (4 allowed)
  - ii. Henry Street between Lafayette Street and Mimosa Drive (2 allowed)
  - iii. Jamestown Road (15 allowed)
  - iv. Lafayette Street (3 allowed)
  - v. Page Street (1 allowed)
  - vi. Richmond Road between Brooks Street and Virginia Avenue (10 allowed)
- h. Off-street parking [Sec. 21-605.1(c)(8) and Sec. 21-707(c)(3)]:
  - i. Two spaces required for the bed and breakfast establishment, plus one for each bedroom rented to visitors. **There is not enough off-street parking required to accommodate guests at double the approved capacity of the bed and breakfast establishment, or for a live-in manager (and the manager's family) for an owner-occupied bed and breakfast establishment. The proposed ordinance assumes that the operator of the bed and breakfast establishment will find a way to meet the parking needs without specifying a requirement. A supplemental parking plan is required for events over the by-right capacity.**
  - ii. Screening is required, and parking may be prohibited in front yards or street side yards as part of the special exception or special use permit approval.
  - iii. Parking and driveways shall not occupy more than 30% of a front or rear yard, not more than 15% of the total lot area for lots of 20,000 sq.ft. or less, nor more than 10% for lots with more than 20,000 sq.ft. (may be increased by City Council to 15% as part of a special use permit for five or six bedrooms).

- i. Applicable provisions of the Uniform Statewide Building Code, Virginia Department of Health Regulations, and all other applicable laws and regulations shall be met. [Sec. 21-605.1(c)(9)]
- j. Records of bedrooms rented shall be submitted quarterly to the Zoning Administrator. The special exception or special use permit shall remain valid only as long as there are at least 100 bedroom rental nights per year. [Sec. 21-605.1(c)(14) and Sec. 21-605.1(c)(16)]
- k. The special exception or special use permit shall be come null and void if within any 48-month period a court of competent jurisdiction has issued two injunctions arising out of violations of the special exception or special use permit.

### **PLANNING COMMISSION PUBLIC HEARING**

A public hearing is scheduled for the regular Planning Commission meeting on May 14 at 3:30 p.m. in the Third Floor Conference Room at the Williamsburg Municipal Building, 401 Lafayette Street.



Reed T. Nester, AICP  
Planning Director

## **Williamsburg Zoning Ordinance History of Room Rental Regulations**

### **Zoning Ordinance July 28, 1947**

- Allowed as a permitted accessory use in the Residence A District “The renting of rooms and lodging, and the serving of meals, for compensation, to transient guests, residence boarders or tourists by a member of the resident family or by an agent.” This accessory use carried over to the Residence B, Retail Business and General Business Districts.

### **Zoning Ordinance February 13, 1958**

- Allowed as a permitted accessory use in the Residence A District “The renting of rooms and lodging, and the serving of meals, for compensation, to transient guests, residence boarders or tourists by a member of the resident family or by an agent.” This accessory use carried over to the Residence B, Retail Business A & B, and General Business A & B Districts.

### **Zoning Ordinance July 1, 1966**

- Allowed as a permitted accessory use in the Residence A District “The renting of rooms and lodging, and the serving of meals, for compensation, to transient guests, residence boarders or tourist by a member of the resident family or by an agent.” This accessory use carried over to the Residence B, C & D, Limited Business, Retail Business, and General Business Districts.

### **Zoning Ordinance 1976**

- Allowed as a permitted accessory use in the Residence A District “The renting of ***not more than four rooms*** and lodging, and the serving of meals, for compensation, to transient guests, resident boarders or tourists by a member of the resident family or by an agent.” This accessory use carried over to the Residence B, C & D, Limited Business, Retail Business, and General Business Districts.

### **Zoning Ordinance as amended on January 13, 1977 (PCR #76-008)**

- Allowed as a permitted accessory use in the Residence A District “The renting of ***not more than two rooms*** in the principal building for lodging, or lodging and meals, for compensation, to transient guests, tourists, resident roomers, or resident boarders by a member of the resident family or by an agent.” This accessory use carried over to the Residence B, C & D, Limited Business, Retail Business, and General Business Districts.

### **Zoning Ordinance as amended on June 9, 1983 (PCR #82-020)**

- Allowed as a permitted accessory use in the Residence A District “In a one-family dwelling occupied only by a family related by blood, adoption, or marriage, the renting of ***not more than two bedrooms*** in the principal building for lodging to transient guests, tourists or resident roomers, as well as the furnishing of meals for compensation to such rental occupants by a member of the resident family;

provided, however, that not more than two resident roomers, or two resident boarders, or two transient guests, shall reside in a bedroom at the same time, except that any child under twelve years of age shall not count as a guest in a bedroom rented to a transient guest; and, provided further, that the combined total of resident roomers and resident boarders shall not exceed four persons.” This accessory use carried over to the Residence B, C, D & E, Limited Business, Retail Business, and General Business Districts.

#### **Zoning Ordinance as amended on July 13, 1989 (PCR #89-002)**

- Allowed rental of ***not more than two bedrooms*** to roomers and visitors as a permitted accessory use in an owner-occupied single-family detached dwelling in the Residence District A, and carried over to the Residence B, C, D & E, Limited Business, Retail Business, and General Business Districts. Approval by the Board of Zoning Appeals as a Special Exception was required, and establishments were limited to 14 designated corridors.

#### **Zoning Ordinance as adopted on October 10, 1991 (Ordinance No. 862)**

- Supplemental District Regulations pertaining to rental of bedrooms to roomers and visitors incorporated the changes made on July 13, 1989 into the new Zoning Ordinance.

#### **Zoning Ordinance as amended on February 8, 1996 (PCR #95-018)**

- Amended Supplemental District Regulations pertaining to rental of bedrooms to roomers and visitors. Allowed rental of ***not more than four bedrooms*** to visitors (two bedrooms to roomers) as an accessory use in an owner-occupied single-family detached dwelling in the RS-1, RS-2, RM-1, RM-2, RDT, LB-1, LB-3, LBR, B-1, and MS Districts. Approval by the Board of Zoning Appeals as a Special Exception was required, and establishments were limited to six designated corridors.

#### **Zoning Ordinance as amended on August 10, 2006 (PCR #06-014)**

- Amended Supplemental District Regulations pertaining to rental of bedrooms to roomers and visitors. Allowed rental of ***up to six bedrooms*** to visitors on a one-acre lot with a special use permit approved by City Council, and limited to the six designated corridors.

#### **Zoning Ordinance as amended on February 13, 2014 (PCR #13-038)**

- Amended Supplemental District Regulations pertaining to rental of bedrooms to roomers and visitors. Allowed owner-occupied room rental to visitors to have one non-resident employee, and a non-owner-occupied room rental to visitors with a full-time live-in manager provided that the owner lives in the City. A special exception (one to four bedrooms) or a special use permit (five or six bedrooms on a one-acre lot) is required.

**ORDINANCE #14-\_\_**  
**PROPOSED ORDINANCE #14-\_\_**

**AN ORDINANCE AMENDING CHAPTER 21, ZONING,  
ARTICLE I. IN GENERAL, SEC. 21-2 DEFINITIONS, ARTICLE III. DISTRICT  
REGULATIONS, ARTICLE IV. SUPPLEMENTAL DISTRICT REGULATIONS,  
SECS. 21-605 AND 21-605.1 FOR THE PURPOSE OF REVISING REGULATIONS  
FOR BED AND BREAKFAST ESTABLISHMENTS  
(PCR #14-009)**

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 I. In General, Sec. 21-2. Definitions; Article III. District Regulations, Division 2 Single-Family Dwelling District RS-2, Division 3 Single-Family Dwelling District RS-2, Division 3.1 Single-Family Dwelling District RS-3, Division 4 Multifamily Dwelling District RM-1, Division 5 Multifamily Dwelling District RM-2, Division 6 Downtown Residential District RDT, Division 6.1 Limited Business Downtown District LB-1, Division 6.3 Limited Business Mixed-use District LB-3, Division 8 downtown Business District B-1, Division 13 Museum Support District MS, Division 15, Planned Development Districts PDR, PDC and PDU; Article IV. Supplemental District Regulations, Secs. 21-605 and 21-605.1; and Article V. Parking, Sec. 21-707(c) be amended to read as follows:

**ARTICLE I. IN GENERAL**

**Sec. 21-2. Definitions.**

*Bed and breakfast establishment means a detached dwelling in which, for compensation, meals and overnight accommodations are provided for visitors. The detached dwelling shall be occupied by the owner-occupant and/or a full-time live-in manager. Activities such as weddings, receptions and other special events may be allowed with a supplemental special exception.*

**ARTICLE III. DISTRICT REGULATIONS**

**DIVISION 2. SINGLE-FAMILY DWELLING DISTRICT RS-1**

**Sec. 21-138. Uses permitted as special exceptions**

Uses permitted in the single-family dwelling district RS-1 with a special exception approved by the board of zoning appeals in accordance with section 21-97(f) are as follows:

(2) Rental of bedrooms in a single-family detached dwelling to roomers ~~and visitors~~ in accordance with section 21-605.

(3) *Bed and breakfast establishments in accordance with section 21-605.1.*

## **DIVISION 3. SINGLE-FAMILY DWELLING DISTRICT RS-2**

### **Sec. 21-163. Uses permitted as special exceptions**

Uses permitted in the single-family dwelling district RS-2 with a special exception approved by the board of zoning appeals in accordance with section 21-97(f) are as follows:

(2) Rental of bedrooms in a single-family detached dwelling to roomers ~~and visitors~~ in accordance with section 21-605.

(3) Bed and breakfast establishments in accordance with section 21-605.1.

## **DIVISION 3.1. SINGLE-FAMILY DWELLING DISTRICT RS-3**

### **Sec. 21-173. Uses permitted as special exceptions**

Uses permitted in the single-family dwelling district RS-1 with a special exception approved by the board of zoning appeals in accordance with section 21-97(f) are as follows:

(2) Rental of bedrooms in a single-family detached dwelling to roomers ~~and visitors~~ in accordance with section 21-605.

(2.1) Bed and breakfast establishments in accordance with section 21-605.1.

## **DIVISION 4. MULTIFAMILY DWELLING DISTRICT RM-1**

### **Sec. 21-188. Uses permitted as special exceptions**

Uses permitted in the multifamily dwelling district Rm-1 with a special exception approved by the board of zoning appeals in accordance with section 21-97(f) are as follows:

(1) Rental of bedrooms in a single-family detached dwelling to roomers ~~and visitors~~ in accordance with section 21-605.

## **DIVISION 5. MULTIFAMILY DWELLING DISTRICT RM-2**

### **Sec. 21-213. Uses permitted as special exceptions**

Uses permitted in the single-family dwelling district RS-1 with a special exception approved by the board of zoning appeals in accordance with section 21-97(f) are as follows:

(1) Rental of bedrooms in a single-family detached dwelling to roomers ~~and visitors~~ in accordance with section 21-605.

## **DIVISION 6. DOWNTOWN RESIDENTIAL DISTRICT RDT**

### **Sec. 21-238. Uses permitted as special exceptions**

Uses permitted in the downtown residential district RDT with a special exception approved by the board of zoning appeals in accordance with section 21-97(f) are as follows:

(1) Rental of bedrooms in a single-family detached dwelling to roomers ~~and visitors~~ in accordance with section 21-605.

(2) Bed and breakfast establishments in accordance with section 21-605.1.

## **DIVISION 6.1. LIMITED BUSINESS DOWNTOWN DISTRICT LB-1**

### **Sec. 21-248. Uses permitted as special exceptions**

Uses permitted in the limited business downtown district LB-1 with a special exception approved by the board of zoning appeals in accordance with section 21-97(f) are as follows:

(1) Rental of bedrooms in a single-family detached dwelling to roomers ~~and visitors~~ in accordance with section 21-605.

(2) Bed and breakfast establishments in accordance with section 21-605.1.

## **DIVISION 6.3. LIMITED BUSINESS MIXED-USE DISTRICT LB-3**

### **Sec. 21-256.3. Uses permitted as special exceptions**

Uses permitted in the limited business mixed-use district LB-3 with a special exception approved by the board of zoning appeals in accordance with section 21-97(f) are as follows:

(1) Rental of bedrooms in a single-family detached dwelling to roomers ~~and visitors~~ in accordance with section 21-605.

(1.1) Bed and breakfast establishments in accordance with section 21-605.1.

## **DIVISION 8. DOWNTOWN BUSINESS DISTRICT B-1**

### **Sec. 21-293. Uses permitted as special exceptions**

Uses permitted in the downtown business district B-1 with a special exception approved by the board of zoning appeals in accordance with section 21-97(f) are as follows:

(1) Rental of bedrooms in a single-family detached dwelling to roomers ~~and visitors~~ in accordance with section 21-605.

(2) Bed and breakfast establishments in accordance with section 21-605.1.

## DIVISION 13. MUSEUM SUPPORT DISTRICT MS

### Sec. 21-433. Uses permitted as special exceptions

Uses permitted in the museum support district MS with a special exception approved by the board of zoning appeals in accordance with section 21-97(f) are as follows:

(1) Rental of bedrooms in a single-family detached dwelling to roomers ~~and visitors~~ in accordance with section 21-605.

## DIVISION 15. PLANNED DEVELOPMENT DISTRICTS PDR, PDC AND PDU

### Sec. 21-481. Planned development residential district PDR.

(f) *Uses permitted as special exceptions.* Uses permitted in the planned development residential district PDR with a special exception approved by the board of zoning appeals in accordance with section 21-97(f) are as follows:

(1) Rental of bedrooms in a single-family detached dwelling to roomers ~~and visitors~~ in accordance with section 21-605.

(2) Bed and breakfast establishments in accordance with section 21-605.1.

## ARTICLE IV. SUPPLEMENTAL DISTRICT REGULATIONS

### 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 to roomers are allowed throughout residential districts but 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.

## **Sec. 21-605.1. Bed and breakfast establishments**

(a) Intent. These regulations are established to allow the operation of bed and breakfast establishments along the city's entrance corridors while preserving the residential character of the neighborhoods in which they are located. By limiting the location of bed and breakfast establishments only along specified entrance corridors, bringing increased traffic and congestion by nonresidents into residential districts is avoided. In addition, bed and breakfast establishments are limited to a minority of the houses on the specified streets in order to ensure that all of the corridors maintain their residential character.

(b) Owner-occupied bed and breakfast establishment defined.

(1) For the purpose of this section, a bed and breakfast establishment 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 bed and breakfast establishment and the lot upon which it is located and regularly occupies said bed and breakfast establishment 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 bed and breakfast establishment 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 bed and breakfast establishment 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 bed and breakfast establishment 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 bed and breakfast establishment and lot as their primary residence shall be established by their affidavits.
- d. If a change in fee simple ownership of the bed and breakfast establishment 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 21-605.1(b)(2)c. above.
- e. Should ownership, control or occupancy of a bed and breakfast establishment for which a special exception has been issued at any time fail to meet the requirements of this section 21-605.1(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)(e) Bed and breakfast establishments Rental of bedrooms to visitors.~~ Bed and breakfast establishments ~~The rental of bedrooms to one or more visitors shall be approved 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) Bed and breakfast establishments may be Rentals shall be limited to:
- a. Owner-occupied and single family detached dwellings; which may have either a full-time live-in manager (which may include the manager's family) or 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 and/or one non-resident employee) 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 bed and breakfast establishment ~~single family detached dwelling~~, as defined by section 21-605.1(b)(1)a. or the stockholders or members as defined by section 21-605.1(b)(1)b. also resides in the City of Williamsburg.
  - c. A change in occupancy from category 21-605.1(c)(1)a. to category 21-605.1(c)1.b. ~~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).
- a. 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.
- (3) No persons other than members of the immediate family residing on the premises, a full-time live-in manager (which may include the manager's family) or an authorized employee for an owner-occupied bed and breakfast establishment ~~single family detached dwelling~~ as provided in section 21-605.1(c)(1)a. ~~21-605(e)(1)(a)~~ above, or the full-time live-in manager (which may include the manager's family and/or one non-resident employee) ~~and the manager's immediate family~~ as provided in section 21-605.1(c)(1)b. ~~21-605(e)(1)(b)~~ above, shall be involved in the operation of the bed and breakfast establishment and in the serving of meals ~~rental of the permitted bedroom(s).~~
- (4) Meals may be provided, subject to the following conditions:
- a. Meals may only be served to visitors renting bedrooms in the bed and breakfast establishment, or to the guests of visitors renting bedrooms in the bed and breakfast establishment. The maximum number of guests allowed to be served meals shall be two guests for each authorized bedroom for the bed and breakfast establishment.

- b. As a part of the special exception or special use permit application, a letter from the Virginia Department of Health indicating compliance with their food establishment regulations shall be submitted.

~~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.~~

- (5) Weddings, receptions and other special events: A bed and breakfast establishment meeting the requirements sections 21-605.1(c)15 and 21-605.1(c)16, and located on a lot contiguous to the major streets listed in section 21-605.1(c)(6), may host weddings, receptions and other special events. The following requirements shall apply:

- a. Maximum number of guests: The maximum number of guests shall be double the approved capacity of the bed and breakfast establishment, based on an occupancy of two persons per bedroom. Additional guests may be authorized with a supplemental special exception from the board of zoning appeals in accordance with section 21-97(f), and subject to the following additional requirements:

1. The maximum number of guests is 50 people.
2. For events above the standard capacity, there shall be no more than one per day, or two in any seven-day period. A wedding ceremony and its associated reception shall be considered a single event.
3. A parking plan shall be submitted and approved as a part of the special exception process. Parking may be accommodated on-site, on adjacent property or on property directly across the street, and/or on available and conveniently located public parking spaces from which attendees can walk safely. Valet parking may also be used.
4. When food service is proposed as a part of the proposed weddings, receptions and other special events, a letter from the Virginia Department of Health indicating compliance with their food establishment regulations shall be submitted as a part of the special exception application.
5. The authorization for additional guests shall be valid so long as the approval for the bed and breakfast establishment is valid.

- b. Facilities: Any building or temporary tents used to accommodate weddings, receptions and special events shall comply with all applicable requirements of the Uniform Statewide Building Code and the Fire Prevention Code (Chapter 8, Fire Protection, Williamsburg Code). Any tent shall be removed within 48 hours of the conclusion of each event, unless the special exception allows a greater time.
  - c. Duration of event: Weddings, receptions and special events shall be limited to between 10:00 a.m. and 10:00 pm. Set-up and take-down activities may take place no earlier than 8:00 a.m. and no later than 11:00 p.m.
  - d. Lighting: Exterior lighting shall be limited to fixtures and illumination intensities that will not produce illumination intensities exceeding 0.1 footcandles at the property line.
  - e. Noise: Events shall be subject to all requirements Article V. Noise Control of the Williamsburg Code. No amplified music shall be allowed.
  - f. Food service: When food service is proposed as a part of the proposed weddings, receptions and other special events, approval must be obtained from the Virginia Department of Health.
  - g. The use of a bed and breakfast establishment for weddings, receptions and special events shall be subject to the applicable provisions of the Uniform Statewide Building Code, the Fire Prevention Code (Chapter 8, Fire Protection, Williamsburg Code), Virginia Department of Health requirements, and all other applicable laws and regulations. A certificate of occupancy shall be issued by the Williamsburg Codes Compliance Division prior the bed and breakfast establishment hosting weddings, receptions and special events.
- (6) Bed and breakfast establishments ~~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~~ bed and breakfast establishment and its front door faces the major street. The number of bed and breakfast establishments ~~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 bed and breakfast establishments ~~single-family detached dwellings allowed to rent bedrooms to visitors~~ are:

- a. Capitol Landing Road from Lafayette Street to Queen's Creek — four bed and breakfast establishments are allowed ~~single-family detached dwellings are allowed to rent bedrooms to visitors.~~
- b. Henry Street between Lafayette Street and Mimosa Drive — two bed and breakfast establishments are allowed ~~single-family detached dwellings are allowed to rent bedrooms to visitors.~~
- c. Jamestown Road — 15 bed and breakfast establishments are allowed ~~single-family detached dwellings are allowed to rent bedrooms to visitors.~~
- d. Lafayette Street — three bed and breakfast establishments are allowed ~~single-family detached dwellings are allowed to rent bedrooms to visitors.~~
- e. Page Street — one bed and breakfast establishment is allowed ~~single-family detached dwelling is allowed to rent bedrooms to visitors.~~
- f. Richmond Road between Brooks Street and Virginia Avenue — ten bed and breakfast establishments are allowed ~~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. Two off-street parking spaces for the bed and breakfast establishment, plus one off-street parking space shall be provided ~~shall be provided~~ for each bedroom rented to visitors shall be provided (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 a bed and breakfast establishment (~~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 for a bed and breakfast establishment ~~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 section 21-605.1 ~~this section 21-605~~ are met, which includes approval as a special exception use by the board of zoning appeals or the approval as a special use permit use by the city council.

- (14) The owner-occupant or the full-time live-in manager of the ~~single-family~~ detached 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 bed and breakfast establishment ~~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 or special use permit 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 approved by the board of zoning appeals or special use permit granted by the city council for a bed and breakfast establishment ~~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 21-605.1, to the same record owner of such bed and breakfast establishment ~~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.

**ARTICLE V. PARKING**

**Sec. 21-707. Amount of offstreet parking required.**

The offstreet parking required by this article shall be provided and maintained on the basis of the following table, except as otherwise provided in this article:

	<i>Use Type</i>	<i>Required Parking Spaces</i>
(C)	<i>Transient lodgings:</i>	
	(2) Room rentals in single-family detached dwellings (in addition to the parking required by section 21-707(a)): For more than 1 roomer <del>For visitors</del>	1 for each roomer <del>1 for each bedroom rented</del>
	<u>(3) Bed and breakfast establishments</u>	<u>2 for the bed and breakfast establishment, plus 1 for each bedroom rented to visitors</u>

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

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

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

Attest: \_\_\_\_\_  
Lisa C. Judkins, City Council Clerk



# CITY OF WILLIAMSBURG

## MEMORANDUM

**TO: Planning Commission**

**DATE: April 4, 2014**

**SUBJECT: PCR #14-011  
ED Economic Development District revisions**

Quarterpath Williamsburg LLC has submitted plans for a 157 unit Townhome and Manor Home (attached duplex) development (115 Townhomes and 42 Manor Homes), which is now under review by staff and the Site Plan Review Committee. As a part of this proposal, Riverside Healthcare Association, Inc., and Quarterpath Williamsburg LLC have submitted a package of changes to the ED District to accommodate the proposed development. Staff has worked with the applicant in developing this proposal.



### PREVIOUS PROPOSAL

A previous proposal was approved in 2013 to amend the ED District by revising lot width, yard, height and accessory building regulations (PCR #12-013). These changes were intended to allow additional by-right flexibility for developing Quarterpath at Williamsburg as a mixed-use development, and included the following:

1. Front yards were reduced from 15 feet to five feet.
2. Side yards on a street corner were been reduced from 15 feet to five feet (this did not cover townhouses on street corners and buildings on alley corners).
3. Rear yards were reduced from 15 feet to five feet when adjacent to a public or private street or alley.

4. Detached garages were allowed for townhouses.
5. An Economic Development Parking District was created, which allowed on-street parking to be counted toward the required parking requirement.

## **CURRENT PROPOSAL**

The current proposal builds on the changes that were made to the ED District in 2013. These changes are detailed in the attached ordinance, and are summarized below:

1. "Duplex dwelling" and "duplex dwelling, attached" are added to permitted uses in the ED District (and to the Definitions section) to allow the proposed "Manor Houses." The Manor Houses will be attached "flat over flat" buildings that are attached duplexes, and are not now allowed in the ED District.
2. The "Townhouse" definition is revised to allow a 2-unit townhouse row when there are two or more townhouse rows and the average townhouses per row is not less than three. A minimum of three townhouse in a row is now required. The proposal has one two-unit townhouse row.
3. The minimum lot width for non-townhouse lots is reduced from 50 feet to 25 feet to accommodate the attached duplexes. The required townhouse lot width is 20 feet.
4. Side yards are reduced from 10 feet to 5 feet when adjacent to public or private streets or alleys, and for regular development as well as for townhouses. This provides consistency for side yard requirements adjacent to streets and alleys throughout the ED District.
5. Rear yards are reduced from 15 feet to 7½ feet for regular development as well as for townhouses. This accommodates the attached duplexes, and also provides a yard consistent with the 7½ foot side yards now required between townhouse rows.
6. A two space per unit parking requirement for duplex dwellings is added to the Economic Development Parking District, and is the standard duplex parking requirement for all other areas of the City.
7. A provision is added to the Economic Development Parking District to allow all on-street parking in a subdivision that abuts the individual lots in the subdivision to be counted toward the required off-street parking for all of the lots in the subdivision. This ensures that the intent of the Economic Development Parking District to allow on-street parking to be counted toward the required parking will apply to the small urban lots proposed.

## **PUBLIC HEARING DATE**

A public hearing is scheduled for the regular Planning Commission meeting on May 14.

  
Reed T. Nester, AICP  
Planning Director

**ORDINANCE #14-\_\_**  
**PROPOSED ORDINANCE #14-\_\_**

**AN ORDINANCE AMENDING CHAPTER 21, ZONING,  
ARTICLE I. IN GENERAL, DEFINITIONS, ARTICLE III. DISTRICT REGULATIONS,  
DIVISION 10.1, ED DISTRICT, AND ARTICLE V. PARKING, PERTAINING TO  
PERMITTED USES, YARDS AND PARKING REQUIREMENTS IN THE ED DISTRICT  
(PCR #14-011)**

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 I. In General, Sec. 21-2; Article III. District Regulations, Division 10.1, Economic Development District ED, Sec. 21-362(1)a. Permitted Uses, Sec. 21-366. Lot width, Sec. 21-367(2) and (3) Yards, and Sec. 21-370(3) Yard regulations for townhouses; and Article 5. Parking, Sec. 21-712 Economic Development Parking District be amended to read as follows:

**ARTICLE I. IN GENERAL**

**Sec. 21-2. Definitions.**

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

- (1) *Single-family detached dwelling* means a separate, detached building containing one dwelling unit.
- (2) *Duplex dwelling* means a separate, detached building containing two dwelling units, which dwelling units may be on separate lots.  
(2.1) Duplex dwelling, attached means a building containing two dwelling units, which building is attached by a solid party wall to another main building or buildings, each of which is located on a separate lot of record.
- (3) *Multi-family dwelling* means a building containing three or more dwelling units; or one or more dwelling units when the primary use of the building is for a permitted non-residential use.
- (3.1) *Student dwelling* means a building containing three or more dwelling units located in close proximity to the campus of the College of William & Mary and designed to be occupied by students at the college.
- (4) *Townhouse* means a single-family attached dwelling, containing one dwelling unit, in a row of not less than three nor more than ten such units, or when there are two or more rows, with an average of not less than three or more than ten such units in a row. Each unit shall be separated from adjacent dwellings by solid party walls, and shall be located on a separate lot of record.

- (5) *Group home* means group homes or other residential facilities licensed by the department of mental health, mental retardation and substance abuse services occupied by:
- a. Not more than eight mentally ill, mentally retarded or developmentally disabled persons together with one or more resident counselors or other staff persons. Mental illness and developmental disability do not include current illegal use of or addiction to a controlled substance as defined in Code of Virginia, § 54.1-3401; or by.
  - b. Not more than eight aged, infirm or disabled persons together with one or more resident counselors or other staff persons.

For purposes of single-family residential occupancy, a group home shall be deemed to be a family.

### ARTICLE III. DISTRICT REGULATIONS

#### DIVISION 10.1. ECONOMIC DEVELOPMENT DISTRICT ED

##### Sec. 21-362. Permitted uses.

The uses permitted in the economic development district ED are as follows:

- (1) Residential uses.
  - a. The following residential uses are permitted:
    1. Duplex dwellings and attached duplex dwellings.
    2. ~~4.~~ Townhouses in accordance with section 21-370.
    3. ~~2.~~ Multifamily dwellings.
    4. ~~3.~~ Planned retirement communities and/or continuing care communities, including, but not limited to, congregate care facilities, rest homes, convalescent homes, homes for the elderly, nursing homes, elderly housing and independent living units (single family detached, duplex and multifamily), provided that they are planned as a community.
  - b. Not more than 40 percent of the gross area of contiguous land in an economic development district ED, whether under the same or different ownership, may be devoted exclusively to residential use as described in Sec. 21-362(1)a. Residential use includes residential building footprint area, associated parking spaces and driveways, landscape areas, yard areas, and recreation areas.

##### Sec. 21-366. Lot width.

The minimum lot width at the building line in the economic development district ED shall be 25 ~~50~~ feet, and shall not be less than 25 feet at the street line, except for townhouses regulated by section 21-370.

## Sec. 21-367. Yards.

The yard requirements in the economic development district ED are as follows:

- (1) *Front.* There shall be a front yard of not less than five feet, except:
  - a. Where 40 percent or more of the frontage on one side of the street within the same block is improved with buildings, no building on that side of the street within the same block shall be required to have a front yard greater than the average front yard of the existing buildings. However, when there are buildings on the adjacent lots on both sides, the front yard shall not be required to be greater than the average of the front yards of the buildings on the adjacent lots. The side line of a building on a corner lot shall not be a factor in these calculations.
  - b. When a lot has a double frontage, front yards shall be provided on both streets, subject to such reductions as may be allowed under subsection 21-367(1)b.
  - c. No accessory building shall be located in a front yard.
- (2) *Side.*
  - a. No side yard shall be required. However, if a building is not built on the property line, there shall be a side yard of at least ten feet, or five feet when adjacent to a public or private street or alley.
  - b. *Corner lots:* On a corner lot, the owner shall choose which yard is the front yard unless the front yard is designated on the recorded subdivision plat. The rear yard shall be opposite the chosen front yard. The other yard abutting the street shall be a side yard and shall not be less than five feet for both main and accessory buildings, unless a greater side yard is designated on a recorded subdivision plat.
  - c. Side yards for accessory buildings, except for those on corner lots, shall not be less than three feet.
  - d. Transitional screening shall be required when a lot is adjacent to a residential zoning district, in accordance with section 21-367(4).
- (3) *Rear.*
  - a. There shall be a rear yard of not less than ~~15 feet~~ seven and one-half feet, or five feet when adjacent to a public or private street or alley.
  - b. Rear yards for accessory buildings shall not be less than five feet.
  - c. Transitional screening shall be required when a lot is adjacent to a residential zoning district, in accordance with section 21-367(4).

**Sec. 21-370. Regulations for townhouses.**

The regulations for townhouses in the economic development district ED are as follows:

- (3) Yard regulations.
  - a. *Front.* No front yard shall be required for an individual townhouse lot. However, all buildings in the townhouse development shall be located at least five feet from any street or highway right-of-way.
  - b. *Side.* Each townhouse located at the end of a group of townhouses shall have a side yard of at least seven and one-half feet, or five feet when adjacent to a public or private street or alley.
  - c. *Rear.* Each townhouse shall have a rear yard of not less than ~~15 feet~~ seven and one-half feet, or five feet when adjacent to a public or private street or alley.

**ARTICLE V. PARKING**

**Sec. 21-712. Economic Development Parking District**

(a) An Economic Development Parking District is created to establish special parking requirements appropriate to the character of the ED Economic Development District, which is designed for innovative mixed-use development with an emphasis on high quality design standards.

(b) The Economic Development Parking District shall apply to all areas of the city zoned ED Economic Development District.

(c) The ~~off-street~~ parking required for the Economic Development Parking District shall be provided and maintained on the basis of the following table:

	Use Type	Required Parking Spaces
(1)	<b>Residential uses:</b>	
	a. Duplex dwellings	<u>2 for each dwelling unit</u>
	b. Townhouses <del>a.</del>	2 for each dwelling unit, plus 0.25 for each dwelling unit for visitor parking.
	c. Multifamily dwellings <del>b.</del>	1.25 for each efficiency and one bedroom dwelling unit, and 1.5 for each two or more bedroom dwelling unit, plus 0.25 for each dwelling unit for visitor parking.

<b>(2) Transient lodgings:</b>		
a.	Hotels/motels: 1-100 bedrooms 101-200 bedrooms 201-300 bedrooms 301 and over	1 for each bedroom 100 spaces plus 0.9 for each bedroom over 100 190 spaces plus 0.8 for each bedroom over 300 270 spaces plus 0.7 for each bedroom over 300
	Meeting rooms, banquet rooms and restaurants located within a hotel/motel	1 for each 400 square feet of floor area
<b>(3) Business uses:</b>		
a.	Retail establishments, restaurants, offices, art galleries, museums and other non-residential uses that are not otherwise listed.	1 for each 400 square feet of floor area
<b>(4) Medical uses:</b>		
a.	Doctor's or dentist's office, clinic and outpatient clinic	1 for each 400 square feet of floor area
b.	Hospital	2 for each bed, plus 1 for each 300 square feet of floor area devoted to patient care services, such as cardiopulmonary, physical therapy, radiology, surgery and laboratory

~~(d)~~(e) The off-street parking facilities required by this section shall be located on the same lot or parcel of land that they are intended to serve, or on-street and located along the frontage of the adjoining public street and contiguous to the lot, except as follows:

- (1) Parking may be located off-site if located within 500 feet of any publicly accessible pedestrian entry point to a building. The right to use such property for parking shall be established by deed, easement, lease or similar recorded covenant or agreement; shall be approved as to form and content by the city attorney; shall be recorded in the clerk's office of the circuit court of the city and the County of James City so as to ensure availability of such spaces for a minimum time period of not less than 20 years.
- (2) For a residential subdivision, all on-street parking contiguous to the individual lots in the subdivision can be counted toward the required parking spaces for all of the lots, whether or not the individual parking spaces are contiguous to the individual lots. When a residential subdivision is developed in phases, each phase or combination of phases must meet the parking requirement.

~~(e)~~(d) ~~Required parking spaces may be located off-street or on-street.~~ Dimensions of parking spaces for on-street parking shall meet the dimensions specified by Sec. 21-704. Size of parking spaces.

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

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

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

Attest: \_\_\_\_\_  
Lisa C. Judkins, City Council Clerk

[PC\PCR\2014\14-0110D1]



**CITY OF WILLIAMSBURG**  
MEMORANDUM

---

**TO: Planning Commission**

**DATE: April 15, 2014**

**SUBJECT: PCR #14-013**  
**Revisions to Article VIII. Chesapeake Bay Preservation**

The City was reissued a new stormwater permit by the Commonwealth in 2013 that requires the City to meet new stormwater regulations. The regulations require us to revised and update the City's Stormwater Management Plan and Stormwater Ordinance. It is required that these changes be implemented by July 1. The revisions to the Stormwater Management Plan, the Stormwater Ordinance, and the Erosion and Sediment Control Ordinance require City Council action.

Along with these changes, the Chesapeake Bay Preservation section of the Zoning Ordinance (Article VIII) needs to be updated to reflect the changes being made to the Stormwater Management Plan and related ordinances. This requires Planning Commission as well as City Council review. These changes are detailed in the attached ordinance, and are largely technical in nature.

**PLANNING COMMISSION PUBLIC HEARING**

A public hearing is scheduled for the regular Planning Commission meeting on May 14.

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

**ORDINANCE #14-\_\_**  
**PROPOSED ORDINANCE #14-\_\_**

**AN ORDINANCE AMENDING CHAPTER 21, ZONING,  
ARTICLE VIII. CHESAPEAKE BAY PRESERVATION  
(PCR #14-013)**

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.

**WHEREAS**, revisions to the Virginia Stormwater Management Regulations go into effect on July 1, 2014; and

**WHEREAS**, modifications to the Chesapeake Bay Preservation regulations are needed to comply with the new state regulations.

**NOW, THEREFORE, BE IT ORDAINED** that Chapter 21, Zoning, Article VIII. Chesapeake Bay Preservation, be amended to read as follows:

**ARTICLE VIII. CHESAPEAKE BAY PRESERVATION.**

**Sec. 21-816. - Statement of intent.**

- (a) These regulations are designed to protect and improve the water quality of the Chesapeake Bay, its tributaries, buffer areas and other sensitive environmental lands by minimizing the potential adverse effects of human activity upon these areas. These regulations are intended to encourage and promote:
- (1) Protection of existing high-quality state waters and restoration of all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them;
  - (2) Safeguarding the clean water of the commonwealth from pollution;
  - (3) Prevention of any increase in pollution;
  - (4) Reduction of existing pollution; and
  - (5) Promotion of water resource conservation in order to provide for the health, safety and welfare of the present and future citizens of the commonwealth and the city.
- (b) This article, in conjunction with Article VII of this chapter, Site Plans; other applicable sections of this chapter, Chapter 16, Subdivisions; Chapter 7, Article II, Erosion and Sedimentation Control; Chapter 7, Article III, Wetlands; and Chapter 7, Article I, Stormwater Management; is intended to address management practices for "environmental land units" as identified by the comprehensive plan and which comprise one or more of the following physical attributes: steep slopes, hydric and highly permeable soils, highly erodible soils, vulnerable ground cover, rare

ecological areas, aquifer recharge areas, wetlands, stream valleys, floodplains, established drainageways, other lowlands with sensitive environmental characteristics, and public rights-of-way and easements.

- (c) This article is also intended to support the goals of the Chesapeake Bay Preservation Act ([§ 62.1-44.15:72 of the Code of Virginia](#)) and the city's comprehensive plan by encouraging both the preservation of environmentally sensitive areas and the development of planning sub areas (most developable areas), both as identified on the future land use map of the comprehensive plan.

**Sec. 21-817. - Areas of applicability.**

- (a) The Chesapeake Bay Preservation Areas are shown on the Chesapeake Bay Preservation Area Map as resource protection areas (RPAs) and resource management areas (RMAs); these designations show the general location of RPAs and RMAs and should be consulted by persons contemplating development. Site-specific boundaries of the resource protection areas (RPAs) and the resource management areas (RMAs) shall be determined by the applicant through the performance of an environmental site assessment.
- (b) The resource protection area includes:
- (1) Tidal wetlands.
  - (2) Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow.
  - (3) Tidal shores.
  - (4) Other sensitive lands adjacent to water bodies with perennial flow that provide for the removal, reduction or assimilation of sediments, nutrients and potentially harmful or toxic substances in runoff.
  - (5) A 100-foot buffer area located adjacent to and landward of the components listed in subsections (b)(1) through (4) above, and along both sides of any water body with perennial flow.
- (c) The resource management area (RMA) includes all city land situated within 500 feet of the landward boundary of a resource protection area (RPA). If only a portion of a lot or parcel is in an RMA, than only that portion shall be subject to the RMA regulations. The resource management area includes:
- (1) Floodplains.
  - (2) Highly erodible soils, including steep slopes.
  - (3) Highly permeable soils.
  - (4) Nontidal wetlands.
  - (5) Other land types that, if improperly used or developed, have a potential for causing significant water quality degradation.

**Sec. 21-818. - Permitted uses.**

(a) *Resource protection areas.*

- (1) Development is allowed in the resource protection areas, subject to approval by the zoning administrator, only if it:
  - a. Is water dependent;
  - b. Constitutes redevelopment;
  - c. Is a new use established pursuant to section 21-821(d)(5)(b);
  - d. Is a road or driveway crossing satisfying the conditions set forth in section 21-825;
  - e. Is a flood control or stormwater management facility satisfying the conditions set forth in section 21-821(c).
- (2) All non-water-dependent components of the above shall be located outside of RPAs. Access, utilities or other land disturbance necessary to serve water-dependent facilities shall be held to a minimum with a single point of access where possible, and with the lowest practicable number of points of access where a single point is not reasonably possible. All points of access shall be approved by the zoning administrator. The water-dependent facility shall not conflict with the comprehensive plan, and shall comply with the performance standards in section 21-821.
- (3) Redevelopment shall be permitted in the resource protection area only if there is no increase in the amount of impervious cover and no further encroachment within the resource protection area, and it shall conform to applicable erosion and sediment control and stormwater management criteria as set forth in section 21-821(c).

- (b) *Resource management areas.* Uses permitted in the resource management areas shall be those permitted in the underlying zoning district.

**Sec. 21-819. - Lot size.**

Lot size shall be subject to the requirements of the underlying zoning districts, provided that any lot shall have sufficient area outside the RPA to accommodate an intended development.

**Sec. 21-820. - Required conditions.**

- (a) All development, redevelopment, and land disturbance greater than 2,500 square feet shall be subject to Article VII of this chapter, Site Plans; [Chapter 7, Article I, Stormwater Management](#); Chapter 7, Article II, Erosion and Sedimentation Control; Chapter 16, Subdivisions; and Chapter 7, Article III, Wetlands.
- (b) A water quality impact assessment, in accordance with section 21-821(e), shall be required for any proposed development or redevelopment within an RPA or RMA or

any land disturbance within an RPA. The zoning administrator may waive this requirement within an RMA when it is apparent without further study that the unique characteristics of the site (such as the topography, soils, ground cover, location of wetlands and tidal shores) will prevent the proposed development from causing a degradation of water quality.

**Sec. 21-821. - Performance standards.**

- (a) *Purpose and intent.* Performance standards for the development of land in Chesapeake Bay Preservation Areas are designed to establish the means to reduce areas of land disturbance, minimize erosion and sedimentation potential, reduce land application of nutrients and toxins, and maximize rainwater infiltration. The standards are also intended to prevent a net increase in nonpoint source pollution from new development and to achieve a ~~ten percent~~ reduction in nonpoint source pollution from redevelopment.
- (b) *General standards.*
  - (1) No more land shall be disturbed than is necessary to provide for the proposed use or development.
  - (2) Indigenous vegetation shall be preserved to the maximum extent practicable consistent with the use or development proposed.
  - (3) Where the best management practices utilized require regular or periodic maintenance in order to continue their functions, such maintenance shall be ensured by the city through a maintenance agreement with the owner or developer or some other mechanism that achieves an equivalent assurance of performance.
  - (4) Land development shall minimize impervious cover consistent with the proposed use or development.
- (c) *Stormwater management standards for Chesapeake Bay Preservation Areas.*
  - (1) For any development proposal, except as noted below, ~~the post-development nonpoint source pollution load shall not exceed the pre-development load based upon the calculated average land cover conditions~~ the development proposal shall comply with section 7-21, technical criteria for regulated land disturbing activities.
    - a. This requirement shall be waived for the construction of one-family and two-family dwellings on lots that were recorded prior to September 20, 1990, provided that said lots are served by streets and utilities that were constructed prior to September 20, 1990.
  - (2) The following stormwater management options shall be considered to comply with this subsection:
    - a. Incorporation on the site of best management practices that meet the water quality protection requirements set forth in this subsection, and which also meet the requirements of the most recently adopted revision to the

Williamsburg Stormwater Management Plan, ~~adopted January 8, 1998~~. For the purposes of this subsection, the "site" may include multiple projects or properties that are adjacent to one another or lie within the same drainage area where a single best management practice will be utilized by those projects to satisfy water quality protection requirements;

- b. Compliance with the most recently adopted revision to the Williamsburg Stormwater Management Plan, ~~adopted January 8, 1998~~. This may include a Virginia Pollution Discharge Elimination System (VPDES) permit issued by the Department of Environmental Quality to the city for its ~~municipally owned storm sewer system~~ municipal separate storm sewer system (MS4) discharges.
  - c. Compliance with a site specific VPDES permit issued by the Department of Environmental Quality, provided that the local government specifically determines that the permit requires measures that collectively achieve water quality protection equivalent to that required by this subsection.
  - d. ~~Other stormwater management techniques meeting the requirements of this Article may also be approved.~~
- (3) ~~Redevelopment of any site not currently served by water quality best management practices shall achieve at least a ten percent~~ shall comply with section 7-21, technical criteria for regulated land disturbing activities to achieve the required reduction of nonpoint source pollution in runoff compared to the existing runoff load from the site. Post-development runoff from any site to be redeveloped that is currently served by water quality best management practices shall ~~not exceed the existing load of nonpoint source pollution in surface runoff~~ be permitted to use the existing best management practice if the best management practice is proven to be compliant with section 7-21, technical criteria for regulated land disturbing activities.
- (4) ~~For the purposes of the calculation required by section 21-821(c)(1) and (3):~~
- a. ~~Nonpoint source pollution load shall be calculated on the basis of phosphorous load.~~
  - b. ~~The pre-development nonpoint source pollution load based on the calculated average land cover conditions shall be deemed to be a total phosphorous loading of 0.45 pounds/acre/year and an equivalent impervious cover of 16 percent unless and until individual watersheds are designated within the city and the average total phosphorous loading and equivalent ipervious cover for each individual watershed are determined.~~
  - c. ~~Any other generally accepted engineering practices or methods which meet the requirements of the Chesapeake Bay Perservation Act, and which are acceptable to the zoning administrator, may be substituted for the standards contained in section 21-821(c)(4)b. above.~~

~~(4)~~(5) Any maintenance, alteration, use or improvement to an existing structure which does not degrade the quality of surface water discharge is exempt from the requirements of this subsection.

(d) *Buffer area requirements for resource protection areas.*

- (1) To minimize the adverse effects of human activities on the other components of the resource protection areas, state waters and aquatic life, a minimum 100-foot buffer area of vegetation that is effective in retarding runoff, preventing erosion and filtering nonpoint source pollution from runoff shall be retained if present, and established where it does not exist.
- (2) The buffer area shall be located adjacent to and landward of other resource protection area components and along both sides of any water body with perennial flow. The full buffer area shall be designated as the landward component of the resource protection area.
- (3) ~~[Reserved.] The 100-foot buffer shall be deemed to achieve a 75 percent reduction of sediments and a 40 percent reduction of nutrients.~~
- (4) ~~[Reserved.]~~
- (5) The following additional performance criteria shall apply:
  - a. In order to maintain the functional value of the buffer area, indigenous vegetation may be removed, subject to approval by the zoning administrator, only to provide for reasonable sight lines, access paths, general woodlot management, and best management practices, as follows:
    1. Trees may be pruned or removed as necessary to provide for sight lines and vistas, provided that, where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff.
    2. Any path shall be constructed and surfaced so as to effectively control erosion.
    3. Dead, diseased or dying trees or shrubbery, and noxious weeds (such as Johnson grass, kudzu, and multiflora rose) may be removed and thinning of trees may be allowed, pursuant to sound horticultural practice. A recommendation by a professional forester or arborist may be required by the zoning administrator.
    4. For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline, subject to the issuance of any required permits.
  - b. When the application of the buffer area would result in the loss of a buildable area on a lot or parcel recorded prior to October 1, 1989, encroachments into the buffer area may be allowed by the zoning administrator in accordance with the following criteria:

1. Encroachments into the buffer area shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities.
2. Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment, and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot or parcel.
3. The encroachment may not extend into the lower (seaward) 50 feet of the buffer area.

(e) *Water quality impact assessment.*

- (1) *Purpose.* The purpose of the water quality impact assessment is to identify the impacts of proposed development on water quality and lands within resource protection areas and other environmentally sensitive lands; to ensure that, where development does take place within resource protection areas and other sensitive lands, it will be located on those portions of a site and in a manner that will be least disruptive to the natural functions of resource protection areas and other sensitive lands; to protect individuals from investing funds for improvements proposed for location on lands unsuited for such development because of high ground water, erosion or vulnerability to flood and storm damage; and to specify mitigation which will address water quality protection.
- (2) *When required.* A water quality impact assessment, to be submitted during the plot plan, site plan and/or subdivision review process, is required for:
  - a. Any proposed development or redevelopment within a resource protection area, including any buffer area encroachment as provided for in section 21-821(d)(5)b.
  - b. Any proposed development or redevelopment within an RMA. The zoning administrator may waive this requirement when it is apparent that the unique characteristics of the site (such as the topography, soils, ground cover, location of wetlands and tidal shores) will prevent the proposed development from causing a degradation of water quality.
  - c. Any land disturbance within an RPA.
- (3) The water quality impact assessment shall be of sufficient specificity to demonstrate compliance with this article. The impact statement shall be prepared by qualified persons acting within the limits of their professional expertise and license, and shall include the following:
  - a. Location of the components of the RPA, including the 100-foot RPA buffer, based on a site-specific evaluation.
  - b. Location of the RMA boundaries.
  - c. Location and nature of any proposed encroachments into the RPA buffer area, including type of paving material; areas of clearing or grading; and the location of any structures, driveways and other impervious cover.

- d. ~~A stormwater management plan, or an executed agreement in lieu of a stormwater management plan, in accordance with Chapter 7, Article I, Stormwater Management. Type and location of proposed stormwater management facilities and best management practices necessary to comply with performance standards for stormwater management contained in section 21-821(c).~~
- e. ~~[Reserved.] Calculation of pre and post development pollutant loading in accordance with section 21-821(c).~~
- f. Identification and status of any required wetlands permits from federal, state or local agencies.
- g. An erosion and sediment control plan in accordance with chapter 7, article II, Erosion and Sedimentation Control.
- h. A narrative describing the site; the impacts of the proposed development on topography, soils, hydrology and geology; and the measures taken to mitigate nonpoint source pollution.

**Sec. 21-822. - Interpretation of Chesapeake Bay Protection Area boundaries.**

- (a) *Delineation by applicant.* The Chesapeake Bay Preservation Area map shall be used as a guide to the general location of the RPAs and RMAs. The site-specific boundaries of the resource protection areas (RPAs) and the resource management areas (RMAs) shall be determined through the performance of a site specific environmental site assessment, which shall be done as a part of a site plan (article VII of this chapter), a subdivision preliminary plat or development plan (Williamsburg Subdivision Ordinance), a development plan for a PDR or PDD rezoning (section 21-483 of this chapter), and/or a land disturbing permit (chapter 7, article II, Erosion and Sedimentation Control). The environmental site assessment shall be prepared by a qualified person acting within the limits of their professional expertise and license, and shall include the following:
  - (1) Location of the following features: tidal shores; tidal wetlands; nontidal wetlands; floodplains; highly erodible soils (including steep slopes); and highly permeable soils, and water bodies with perennial flow.
  - (2) A narrative statement explaining the rationale for the boundary delineation.
- (b) *Delineation by the zoning administrator.* The zoning administrator, when requested by an applicant for a minor site plan in accordance with section 21-779, may waive the requirement for an environmental site assessment and perform the site-specific delineation. The zoning administrator may use remote sensing, hydrology, soils, plant species and other data, and consult other appropriate resources as needed to perform the delineation.
- (c) *Procedure where conflicts arise over delineation.* Where the applicant has provided a site-specific delineation of the RPA and/or RMA, the zoning administrator will verify the accuracy of the boundary delineation. In determining the site-specific RPA and/or RMA boundaries, the zoning administrator may render adjustments to the

applicant's boundary delineation, in accordance with Article VII, Site Plans, and Chapter 16, Subdivisions. In the event the adjusted boundary delineation is contested by the applicant, the applicant may petition the board of zoning appeals, in accordance with Article II, Division 5, to determine the boundary delineation.

**Sec. 21-823. - Nonconforming use waivers or modifications.**

- (a) The zoning administrator may waive or modify the requirements herein for principal buildings or principal structures on legal nonconforming lots or parcels to provide for remodeling and alterations or additions to such nonconforming principal buildings or principal structures provided that:
- (1) There will be no increase in nonpoint source pollution load; and
  - (2) Any development or land disturbance exceeding an area of 2,500 square feet complies with Chapter 7, Article II, Erosion and Sedimentation Control, and Chapter 7, Article I, Stormwater Management.
  - (3) In no case shall this provision apply to accessory structures.
  - (4) A finding is made that:
    - a. Granting the waiver or modification will not confer upon the applicant any special privileges that are denied to other property owners who are subject to the provisions of this article and who are similarly situated;
    - b. The waiver or modification request is not based on conditions or circumstances that are self-created or self-imposed;
    - c. The requested waiver or modification is the minimum necessary to afford relief;
    - d. The waiver or modification is in harmony with the purpose and intent of this article and is not of substantial detriment to water quality; and
    - e. Reasonable and appropriate conditions are imposed, as warranted, that will prevent the allowed activity from causing a degradation of water quality.

**Sec. 21-824. - Exemptions.**

- (a) *Public utilities, railroads and public roads and facilities.*
- (1) Construction, installation and maintenance of electric, water, sewage, natural gas and telephone transmission lines, railroads, and public roads and their appurtenant structures in compliance with the Erosion and Sedimentation Control Law (Article 2.4 (§ 62.1-44.15:51 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia ~~Section 10.1-560 et seq. of the Code of Virginia~~) and the Virginia Stormwater Management Act (Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia ~~Section 10.1-603.1 et seq. of the Code of Virginia~~); an erosion and sediment control plan and a stormwater management plan approved by the Virginia Department of Environmental

Quality Conservation and Recreation; or stormwater management standards as listed in Chapter 7, Article I, Stormwater Management section 21-821(c).

- a. The exemption of public roads is further conditioned on the optimization of the road alignment and design, consistent with other applicable requirements, to prevent or otherwise minimize encroachment in the RPA and adverse effects on water quality.
- (2) Construction, installation and maintenance of water, sewer natural gas, underground telecommunications and cable televisions lines owned, permitted, or both by the city, shall be exempt from this article provided that:
- a. To the degree possible, the location of such utilities and facilities should be outside RPAs;
  - b. No more land shall be disturbed than is necessary to provide the proposed utility installation;
  - c. All such construction, installation and maintenance of such utilities and facilities shall be in compliance with all applicable state and federal requirements and permits and designed and conducted in a manner that protects water quality; and
  - d. Any land disturbance exceeding an area of 2,500 square feet complies with Chapter 7, Article II, Erosion and Sedimentation Control and Chapter 7, Article I, Stormwater Management.
- (b) *Resource protection areas*. The following land disturbances in resource protection areas are exempt from the requirements of this article: (a) water wells; (b) passive recreation facilities such as boardwalks, trails and pathways; and (c) historic preservation and archaeological activities, provided that it is demonstrated to the satisfaction of the zoning administrator that:
- (1) Any required permits, except those to which this exemption specifically applies, shall have been issued;
  - (2) Sufficient and reasonable proof is submitted that the intended use will not deteriorate water quality;
  - (3) The intended use or activity does not conflict with nearby planned or approved uses;
  - (4) Any land disturbance exceeding an area of 2,500 square feet shall comply with Chapter 7, Article I, Stormwater Management and Chapter 7, Article II, Erosion and Sedimentation Control.

**Sec. 21-825. - Construction of roads and driveways in resource protection areas.**

- (a) The planning commission may allow roads and driveways not exempt under section 21-824(a)(1) to be constructed within a resource protection area if it finds:
  - (1) There are no reasonable alternatives to aligning the road or driveway in or across the resource protection area;

- (2) The alignment and design of the road or driveway are optimized, consistent with other applicable requirements, to minimize encroachment in the resource protection area and to minimize adverse effects on water quality;
- (3) The design and construction of the road or driveway satisfy all applicable criteria of this article, including submission of a water quality impact assessment; and
- (4) Planning commission reviews the plan for the road or driveway proposed in or across the resource protection area in coordination with applicable site plan and subdivision review.

**Sec. 21-826. - Exceptions.**

- (a) A request for a special exception to the requirements of this article shall be made in writing to the board of zoning appeals, in accordance with Article II, Division 5. The application shall identify the impacts of the proposed exception on water quality and on lands within the resource protection areas and resource management areas through the performance of a water quality impact assessment which complies with section 21-821(e).
- (b) The board of zoning appeals shall review the request for a special exception and the water quality impact assessment and may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of this article if it finds:
  - (1) Granting the special exception will not confer upon the applicant any special privileges that are denied by this article to other property owners who are subject to the provisions of this article and who are similarly situated;
  - (2) The request is not based upon conditions or circumstances that are self-created or self-imposed;
  - (3) The special exception request is the minimum necessary to afford relief;
  - (4) The special exception is in harmony with the purpose and intent of this article and is not of substantial detriment to water quality;
  - (5) Reasonable and appropriate conditions are imposed, as warranted, that will prevent the special exception request from causing a degradation of water quality.

**Secs. 21-827-21-850. - Reserved.**

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

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

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

Attest: \_\_\_\_\_  
Lisa C. Judkins, City Council Clerk

[PC\PCR\2014\14-013OD1]