



Ratification
Number 2019-094

A N O R D I N A N C E

TO AMEND CHAPTER 54 OF THE CODE OF THE CITY OF CHARLESTON (ZONING ORDINANCE) BY DELETING SECTION 54-220 ACCOMMODATIONS OVERLAY ZONE, AND REPLACING SAID SECTION WITH A NEW SECTION 54-220. ACCOMMODATIONS OVERLAY ZONE, TO, AMONG OTHER THINGS: PROVIDE FOR THE PRESERVATION OR CREATION OF MIXED-USE DISTRICTS; LIMIT THE DISPLACEMENT OF HOUSING BY ACCOMMODATIONS USES AND CONSIDER THE EFFECTS OF DWELLING UNITS TO BE ALTERED OR REPLACED ON THE HOUSING STOCK AND WHETHER REQUIREMENTS TO PROTECT THE AFFORDABILITY OF THE DWELLING UNITS SHOULD BE ATTACHED TO AN ACCOMMODATIONS SPECIAL EXCEPTION APPROVAL; ESTABLISH CONDITIONS ON THE DISPLACEMENT OR REDUCTION OF OFFICE SPACE BY ACCOMMODATIONS USES; PROHIBIT THE DISPLACEMENT OF MORE THAN 25 PERCENT OF GROUND FLOOR, STORE FRONT RETAIL SPACE BY ACCOMMODATIONS USES ON THE PROPERTY; TO INCLUDE A MINIMUM AND MAXIMUM SIZE FOR ACCOMMODATIONS FACILITIES; TO PROVIDE REGULATIONS FOR THE DESIGN AND LOCATION OF GUEST DROP OFF AND PICK UP AREAS; TO REQUIRE THE INCORPORATION OF MEETING AND CONFERENCE SPACE; TO ESTABLISH A LIMIT ON THE NUMBER OF FULL-SERVICE HOTELS; TO PROVIDE FOR A CONTRIBUTION TO THE CITY OF CHARLESTON AFFORDABLE/WORKFORCE HOUSING ACCOUNT; AND TO SUBJECT VIOLATORS OF THE PROVISIONS OF THIS SECTION 54-220 TO HAVING THEIR BUSINESS LICENSE OR CERTIFICATE OF OCCUPANCY REVOKED. (AS AMENDED FOR THIRD READING)

BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. That Section 54-220 of Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) is hereby amended by deleting said section in its entirety and by substituting in its place and stead the following:

“Sec. 54-220. - Accommodations overlay zone.

a. Intent. The A Overlay Zone is intended to identify those areas within the City limits where accommodations uses are allowed. Accommodation uses are prohibited except within the A Overlay Zone, with the exception of short term rentals and bed and breakfasts that are approved in accordance with the provisions of sections 54-208, 54-208.1, 54-208.2, 54-208.3, 54-224. b.1 or 54-227. The City places a high value on the preservation of the character of its residential districts. Outside of its residential districts, the City places a high value on the preservation and creation of a diverse mix of uses, containing a balance of uses comprised of retail uses, office uses, service industry uses, educational uses, cultural uses, and appropriate residential uses. Potential negative impacts of accommodations uses affecting residential districts shall be avoided or minimized to the greatest extent possible, and, outside residential districts, accommodations uses shall contribute to preservation or creation of diverse, mixed-use districts. The City places a high value on assuring that its residents have access to housing that is safe and decent and affordable to persons of all income levels. While accommodations uses are a source of jobs, many, if not most, of the jobs created are low-paying, with minimal benefits, heightening the need for housing that is attainable by those employed in the field of accommodations uses and rendering it necessary and proper for accommodations uses to reasonably contribute to the creation of housing affordable for its workforce. The City places a high value on maintaining a free and safe flow of traffic and the availability of parking spaces convenient to residents, patrons, workers and visitors. As accommodations uses give rise to employees often having to

drive to reach the workplace, to assist in the maintenance of a free and safe flow of traffic and convenient parking, it is necessary and proper and in furtherance of good order that accommodations uses provide a plan for parking employees and/or promoting the use of public transportation.

b. Permitted uses. In any Accommodations overlay zone, land may be used and buildings or structures may be erected, altered or used for any purpose allowed by the base zoning district as listed in Article 2: Part 3, and the following uses, subject to the approval of the Board of Zoning Appeals-Zoning:

1. Accommodations uses. The Board of Zoning Appeals-Zoning may permit accommodations uses as an exception where it finds that:

(a) the accommodations use will not result in a net loss of dwelling units that have been occupied within 5 years of the date of application for the exception; provided however, the BZA-Z may approve the alteration or replacement of such existing dwelling units on the same site as the accommodations use, or within a radius of one quarter (1/4) mile from the site if the proposed off site location does not result in an over concentration of low income households, as defined by the U. S. Department of Housing and Urban Development, as adjusted by the Department of Housing and Community Development; and provided further, the BZA-Z shall require any such alteration or replacement to include dwelling units of substantially the same size and type of

those being altered or replaced and shall require that no certificate of occupancy shall be issued for the accommodations uses until either a certificate of occupancy has been issued for all dwelling units being altered or replaced or irrevocable bonds or letters of credit in favor of the City in amounts equivalent to one hundred twenty-five (125%) per cent of the costs to complete construction or renovation of the dwelling units, as determined by the Chief Building Inspector, has been filed with the City .

(b) the accommodations use, if located in the Accommodations Overlay on the peninsula, will not reduce or displace more than 25% of office space that has been used for such purpose within 5 years of the application for the exception;

(c) the accommodations use, if located in the Accommodations Overlay on the peninsula, will not displace more than 25% of the linear frontage of existing ground floor storefront retail space on the property;

(d) the location of the accommodations use will not significantly increase automobile traffic on streets within residential districts;

(e) the location of the accommodations use will contribute to the maintenance, or creation, of a diverse mixed-use district;

(f) the total square footage of interior and exterior floor area for restaurant and bar space in the proposed accommodations use, including restaurant/bar patron use areas, bar areas, kitchen,

storage, and bathroom facilities, shall not exceed 12 percent of the total interior, conditioned floor area in the accommodations use, except that each accommodations use shall be permitted to exempt from the calculation of total restaurant floor area one interior, ground floor restaurant tenant space if the total tenant space does not exceed 2,000 square feet, the restaurant tenant does not serve alcoholic beverages, and the exempt restaurant tenant space is clearly labeled with these restrictions on the floor plans submitted with the application for this zoning special exception;

(g) the accommodations use proposed guest drop off and pick up area(s) is located outside the public right-of-way and on the property utilized for the accommodations use if the accommodations use contains more than 50 sleeping units, and if 50 sleeping units or less, the proposed guest drop off and pick up area(s) are located outside the public right-of-way if feasible, and the location and design of the guest drop-off and pick-up area(s) has been reviewed by the Department of Traffic and Transportation and determined to be safe and not be an impediment to traffic and that every effort has been made to minimize traffic impacts;

(h) the total number of sleeping units within the buildings or structures on the lot or parcel in which the accommodations use is located is equal to or exceeds ten (10) sleeping units.

(i) within areas of the accommodations overlay zone designated as “A-1”, “A-2”, “A-3”, “A-4”, “A-5”, “A-6”, or “A-7” on the zoning map, the number of sleeping units within the buildings

or structures on the lot or parcel in which the accommodations use is located shall not exceed 50 in areas designated “A-1”; 180 in areas designated “A-2”; 225 in areas designated “A-3”; 100 in areas designated “A-4”; 150 in areas designated “A-5”; 69 in areas designated “A-6”; and 175 in areas designated “A-7”; provided, however, that within the portion of the area designated “A-1” bounded by King Street on the west, Meeting Street on the east, Mary Street on the south and Line Street on the north (the “Full-Service Corridor”), the number of sleeping units within the buildings or structures on the lot or parcel in which the accommodations use is located may exceed 50, but shall not exceed 250, if the accommodations use qualifies as a Full-Service Hotel, meaning that the accommodations use provides 20,000 or more square feet of meeting, conference and banquet space of which 15,000 square feet thereof is contiguous, an on-site restaurant that serves breakfast, lunch and dinner seven days a week and other services such as a concierge, a spa/health club, laundry, turndown service, newspaper delivery, security personnel and airport shuttle; and in no event shall any accommodations use on the peninsula exceed 250 sleeping units;

(j) the proposed accommodations use will not share any of its buildings, structures, facilities, or operations with another accommodations use;

(k) (1) The proposed accommodations use incorporates meeting and conference space at a ratio of 400 square feet per 10 sleeping units, or fraction thereof, with respect to the first 150 sleeping units, and incorporates meeting and conference space at a ratio of 1000 square feet for every 10

sleeping units, or fraction thereof, exceeding 150 sleeping units. In either case, at least 75% of the meeting and conference space shall be contiguous;

(2) Notwithstanding subsection k(1) hereof, if the accommodations use contains more than 50 sleeping units and is located in the Full-Service Corridor, the provisions of subsection (i) hereof shall govern the square footage of required meeting and conference space;

(l) the proposed accommodations use will not result in there being more than eight (8) Full-Service Hotels on the peninsula, inclusive of those Full-Service Hotels existing on the peninsula and those with approved special exceptions as of the effective date of this ordinance; for purposes of this subsection (l) only, a Full-Service Hotel means (1) a Full-Service Hotel as defined in subsection (i); and (2) any accommodations use on the peninsula having in excess of 150 sleeping units; and

(m) to assist in providing affordable housing opportunities for its employees, the applicant for the accommodations use commits to contribute to the City of Charleston Affordable/Workforce Housing Account a fee payable upon the issuance of a Certificate of Occupancy, calculated as follows: \$5.10 per square foot of area used for sleeping units and the hallways adjacent to sleeping units, stairwells and elevators.

c. Application requirements. In making the findings required in subsection b.1, the Board of Zoning Appeals-Zoning shall consider the following information to be provided by the applicant

in site plans, floor plans and building elevations that will govern the construction of the building in which the accommodations use is located, along with a detailed written assessment report to be submitted with the application:

(1) the number of existing dwelling units on the property, including units on the property that were occupied as dwelling units within 5 years of the date of the application for the exception, the type of unit (rental or owner-occupied; one-family detached; one-family attached; two-family or multi-family; occupied or unoccupied), by income range of the most recent occupant(s), the rental price for rental units and market price for owner occupied units relative to the area median income figures that are determined annually by the U.S. Department of Housing and Urban Development and adjusted by the City of Charleston Department of Housing and Community Development, or its successor, the physical condition of the units (sound, deficient, deteriorated or dilapidated), the square footage and number of bedrooms in each unit, and if the units are proposed to be physically altered or replaced, a description and plan showing the square footage and number of bedrooms in the altered or replaced units, and their location;

(2) the effect of the physical alteration or replacement or relocation of dwelling units on the housing stock of a particular type on the property and whether a condition should be attached to a special exception approval for the accommodations use requiring a minimum percentage of the dwelling units on the property or replaced off-site to remain affordable based on the annually updated median area income values;

- (3) the presence of office space on the property, or the presence of spaces on the property that were occupied as office spaces within 5 years of the date of application for the exception;
- (4) the linear frontage of existing ground floor storefront retail space on the property;
- (5) the location and design of guest drop off and pick up areas for the accommodations use;
- (6) the cumulative number of vehicle trips generated by the proposed accommodations use and other accommodations uses that are either existing or approved within an area identified by the Department of Traffic and Transportation, the traffic circulation pattern serving the accommodations use and efforts made to minimize traffic impacts;
- (7) the distance of the main entrance and parking entrance of the accommodations use from a road classified as an arterial or collector road;
- (8) the land uses within five hundred feet (500') of the accommodations use, to include the location, square footage, and number of rooms in existing accommodations uses and accommodations uses that have been approved;
- (9) the proximity of residential districts to the accommodations use;
- (10) the accessory uses proposed for the accommodations use, such as restaurants, spas, bars, pools and the like, in terms of their location, size, impact on parking, traffic generation, noise or odors in or to a residential district;

- (11) the demonstrated provision of off-street parking at the rate of two spaces that meet the design requirements of Sec. 54-318 for each three sleeping units, provided however, the utilization of mechanical or other means of parking that meet the ratio of two spaces for each three sleeping units shall be allowed;
- (12) the presence of industrial uses and uses which use, store, or produce toxic or hazardous materials in quantities in excess of those specified by the EPA listing of toxic and hazardous materials, within five hundred feet (500') of the accommodations use;
- (13) the commitment to environmental sustainability and recycling;
- (14) the distance of the accommodations use from major tourist attractions;
- (15) the distance of the accommodations use from existing or planned transit facilities;
- (16) the long term provision of on- or off-site parking for employees who drive vehicles to work, including an estimate of the number of employees that will drive to work during the maximum shift and the location of parking spaces to be provided, and the demonstrated provision of free transit passes or other incentives to encourage employee use of public transportation;
- (17) the number of sleeping units proposed as part of the accommodations use;
- (18) the provision of shuttle bus services to and from the Historic Districts by accommodations uses with more than 50 sleeping units located outside the area designated "A-1" through "A-6" on the zoning map;

(19) the commitment to make affirmative, good faith efforts to see that construction and procurement opportunities are available to MBEs (minority business enterprises) and WBEs (women business enterprises) as outlined in Section 2-268 (e)(1), (2), and (3) of the Code of the City of Charleston;

(20) the commitment to make affirmative, good faith efforts to hire personnel, representative of the population of the Charleston community, at all employment levels.

d. Violations: In addition to any remedies otherwise available to the City under State law or the City Code, a violation by the owner or operator of the accommodations use of any provisions or conditions of an exception granted hereunder, to include any deviation from the plans and written assessment as required by subsection c. hereof, shall subject the owner or operator of the accommodations use to having its business license and/or certificate of occupancy revoked.

e. Applicability: The provisions of this Section 54-220 shall apply to special exceptions for accommodations uses granted by the Board of Zoning Appeals-Zoning after May 28, 2019, it being the intent of City Council that special exceptions approved by the Board of Zoning Appeals-Zoning prior to May 28, 2019 be entitled to and governed by the vested rights provisions accorded by Article 9, Part 5 of this Chapter. The provisions of this Section 54-220 shall not apply to Planned Unit Developments that include accommodations uses as an authorized use that were approved as of May 28, 2019.

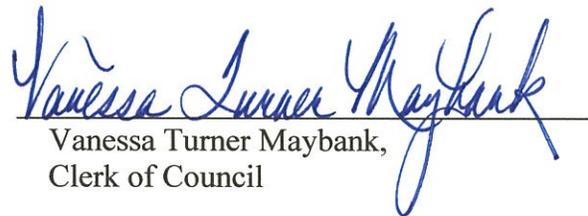
Section 2. This Ordinance shall become effective upon ratification.

Ratified in City Council this 8th day of
October in the Year of Our Lord, 2019,
and in the 244th Year of the Independence of
the United States of America



John J. Tecklenburg, Mayor

ATTEST:



Vanessa Turner Maybank,
Clerk of Council