

ARTICLE 5

HIGH DENSITY RESIDENTIAL DISTRICT - HR

STATEMENT OF INTENT

This district is intended as a residential area with medium to high population density. The regulations for this district are designed to stabilize and protect the essential characteristics of the district; to promote and encourage, insofar as is compatible with the intensity of land use, a suitable environment for family life composed of an adult population with some children. Uses such as schools, parks, churches, and certain public facilities that serve the residents of the district area also permitted. Certain additional uses may be allowed, as long as the character of the district is not altered by levels of traffic, vehicular parking, lighting, noise, and visual displays which are not compatible with residential development.

SECTION 5-1. USE REGULATIONS.

Structures to be erected and land to be used shall be for the following uses:

- 5-1-1 Single family detached dwellings.
- 5-1-2 Two family detached dwellings.
- 5-1-3 Townhouses.
- 5-1-4 Multifamily dwellings, subject to the following:
 - 5-1-4.1 A maximum of eight units per building, unless otherwise adjusted per Section 5-3-2 of this Ordinance. A minimum of 15 feet separation shall be provided between structures except that a minimum of 50 feet shall be provided between the longer sides of adjacent on-site structures. (9/12/89, Case TA-89-01, Ord. No. 022-89; 3/11/09, Case TA-08-12, Ord. No. 2009-10)
- 5-1-5 Deleted. (2/14/89, Case TA-88-17, Ord. No. 006-89)
- 5-1-6 Public parks, community gardens, playgrounds, and play fields. (10/12/10, Case TA-10-418, Ord. No. 2010-51)
- 5-1-7 Public schools, elementary, middle, and high; and private schools having the same curricula that is ordinarily given in public schools.
- 5-1-8 Libraries
- 5-1-9 Churches and other places of worship, but not including rescue missions or temporary revival tents.

WINCHESTER ZONING ORDINANCE

- 5-1-10 Fire and rescue squad stations and Police substations. (6/10/97, Case TA-97-01, Ord. No. 013-97)
- 5-1-11 Public utilities, such as poles, lines, distribution transformers, meters, water and sewer lines, booster or relay stations, transformer substations, transmission lines and towers.
- 5-1-12 Existing cemeteries and the expansion of such cemeteries when the expansion abuts an existing cemetery.
- 5-1-13 Home occupations in accord with Section 18-19 of this Ordinance.
- 5-1-14 Accessory uses, as defined.
- 5-1-15 Off-street parking and loading areas for permitted and conditional uses in accordance with Section 18-6 of this Ordinance. (2/14/89, Case TA-88-17, Ord. No. 006-89)
- 5-1-16 Signs in accordance with Section 18-8 of this ordinance.
- 5-1-17 Group Home and assisted living facility in which no more than eight (8) persons reside as residential occupancy by a single family. (10/9/07, Case TA-07-02, Ord. No. 2007-41; 9/14/10, Case TA-10-333, Ord. No. 2010-38)
- 5-1-18 Cottage housing development, as per the design standards found in Article 13.1 of this Ordinance. (8/9/11, Case TA-11-125, Ord. No. 2011-36)

SECTION 5-2. USES PERMITTED WITH A CONDITIONAL USE PERMIT.

- 5-2-1 Laundromats, excluding dry cleaning. (2/14/89, Case TA-88-17, Ord. No. 006-89)
- 5-2-2 Museums and art galleries.
- 5-2-3 Day nursery or day care center.
- 5-2-4 Nursing homes and rest homes.
- 5-2-5 Tourist homes.
- 5-2-6 Institutions of a religious, educational, eleemosynary, or philanthropic nature, but not penal or mental institutions.
- 5-2-7 Bed & Breakfast Homestay within structures at least fifty (50) years old at the time of adoption of this ordinance (2/11/97, Case TA-96-09, Ord. No. 005-97; 1/9/01, Case TA-00-09, Ord. No. 002-2001)
- 5-2-8 Halfway houses. (2/11/97, Case TA-96-09, Ord. No. 005-97)

HIGH DENSITY RESIDENTIAL DISTRICT - HR

- 5-2-9 Repealed. (2/11/97, Case TA-96-09, Ord. No. 005-97)
- 5-2-10 Repealed. (9/14/10, Case TA-10-337, Ord. No. 2010-40)
- 5-2-11 Rooming houses and boarding houses as defined. (2/14/89, Case TA-88-17, Ord. No. 006-89)
- 5-2-12 Boarding facilities accessory to and operated in conjunction with private schools. (2/14/89, Case TA-88-14, Ord. No. 002-89)
- 5-2-13 Funeral Homes, not exceeding a total of 1,500 square feet of floor area in rooms for services. Crematoria shall not be allowed. (6/14/94, Case TA-94-05, Ord. No. 018-94)
- 5-2-14 Transmitting and receiving facilities and towers for cellular communications systems and similar communications systems in accordance with Section 18-2-1.2 of this Ordinance. (2/13/96, Case TA-95-07, Ord. No. 002-96)
- 5-2-15 Repealed. (2/12/08, Case TA-07-09, Ord. No. 2008-11)
- 5-2-16 Neighborhood Convenience Establishment (6/8/04, Case TA-04-02, Ord. No. 23-2004)
- 5-2-17 Accessory structure, used and occupied as a subordinate dwelling unit by a domestic employee, as defined; and, provided that such conditional use is recorded on the corresponding chain of title for the subject property in the office of the Winchester Circuit Court Clerk. Any such conditional use permit shall expire immediately upon change of ownership or change of occupancy of the main structure, so as to prevent undue density and overcrowding of land, which could adversely impact public health, safety, and welfare. (6/14/11, Case TA-11-06, Ord. No. 2011-14)
- 5-2-18 Cottage housing development, alternative design proposal inconsistent with the design standards found in Article 13.1 of this Ordinance. (8/9/11, Case TA-11-125, Ord. No. 2011-36)
- 5-2-19 Home occupations in accordance with Section 18-19-2.6. (1/14/14, Case TA-13-493, Ord. No. 2013-41)

SECTION 5-3. AREA REGULATIONS.

The minimum lot area for permitted uses in this district shall be as follows:

- 5-3-1 Single family detached dwellings or two family dwelling units - 3,000 square feet per unit.
- 5-3-2 Multifamily dwellings - density shall not exceed one (1) dwelling unit for each 3300 square feet of the Total Project Area, except where dwelling units are certified by the standards outlined in the United States Green Building Council LEED® for Homes

WINCHESTER ZONING ORDINANCE

program; and, with each dwelling unit having no more than two (2) bedrooms, the following Density Adjustment shall be applied: (9/12/89, Case TA-89-01, Ord. No. 022-89; 3/11/09, Case No. TA-08-12, Ord. No. 2009-10)

<u>Level of Certification</u>	<u>Bonus Factor</u>
Certified	.05
Silver	.10
Gold	.15
Platinum	.20

- 5-3-3 Townhouse dwellings - density shall not exceed one (1) dwelling unit for each 3300 square feet of the Total Project Area. However, there shall be no minimum lot area required for an individual townhouse lot. (9/12/89, Case TA-89-01, Ord. No. 022-89)
- 5-3-4 Deleted. (4/10/90, Case TA-89-14, Ord. No. 012-90)
- 5-3-5 Other permitted and conditional uses - 10,000 square feet.

SECTION 5-4. LOT WIDTH REGULATIONS.

- 5-4-1 The minimum lot width for uses in this district shall be as follows:
- 5-4-2 Single family detached dwellings - 50 feet.
- 5-4-3 Two family dwelling units - 25 feet per unit.
- 5-4-4 Townhouse dwelling units - the average width of lots encumbered by any single townhouse structure shall be at least 22 feet. No lot or townhouse unit shall be less than 20 feet in width as measured at the building setback line for lot width or as measured between the common wall and the outside of the outside wall most nearly perpendicular to the setback line for townhouse structures. The property line shall be in the middle of the common wall. Attached dwellings shall be separated by a wall meeting fire protection requirements as set forth in the Virginia Uniform Statewide Building Code, as amended. (9/12/89, Case TA-89-01, Ord. No. 022-89)
- 5-4-5 All other permitted and conditional uses - 70 feet.

SECTION 5-5. SETBACK REGULATIONS.

- 5-5-1 For single family detached dwellings, two unit townhouses and two-family dwellings: Twenty-five (25) feet or more. (3/8/94, Case TA-93-08, Ord. No. 004-94; 8/16/02, Case TA-02-03, Ord. No. 011-2002)

HIGH DENSITY RESIDENTIAL DISTRICT - HR

- 5-5-2 Townhouses with more than two units attached or multifamily dwellings: Thirty-five (35) feet or more. (3/8/94, Case TA-93-08, Ord. No. 004-94; 8/16/02, Case TA-02-03, Ord. No. 011-2002)
- 5-5-3 All other uses: thirty (30) feet or more. (9/11/01, Case TA-01-03, Ord. No. 028-2001)

SECTION 5-6. YARD REGULATIONS.

- 5-6-1 Side setback for uses in this district shall be as follows:
- 5-6-1.1 Single family detached dwellings - 6 feet except as per Section 5-8 of this Ordinance. (9/12/89, Case TA-89-01, Ord. No. 022-89)
- 5-6-1.2 Two-family dwellings - 10 feet except as per Section 5-8 of this Ordinance. (9/12/89, Case TA-89-01, Ord. No. 022-89)
- 5-6-1.3 Townhouse dwellings - 10 feet or more except as per Section 5-8 of this Ordinance and except along common property lines of units within the same townhouse dwelling in which case the common side yard equals zero (0) feet. Townhouse dwellings abutting a LR or MR Residential District shall have a minimum side yard of fifteen (15) feet. (9/12/89, Case TA-89-01, Ord. No. 022-89; 9/11/01, Case TA-01-03, Ord. No. 028-2001)
- 5-6-1.4 Multifamily Structures - 25 feet except when abutting a LR or MR residential district in which case the abutting side yard shall be 50 feet.
- 5-6-1.5 Other permitted and conditional uses - 25 feet. (9/12/89, Case TA-89-01, Ord. No. 022-89)
- 5-6-2 Rear setbacks for uses in this district shall be as follows:
- 5-6-2.1 Each main structure - 25 feet except as follows.
- a. When a townhouse abuts a LR or MR Residential District in which case there shall be a rear yard of fifty (50) feet. (9/12/89, Case TA-89-01, Ord. No. 022-89)
 - b. When a multifamily structure abuts a LR or MR residential district in which case there shall be a rear yard of seventy-five (75) feet. (9/12/89, Case TA-89-01, Ord. No. 022-89)

SECTION 5-7. HEIGHT REGULATIONS.

As per Section 3-7 of this Ordinance.

WINCHESTER ZONING ORDINANCE

SECTION 5-8. CORNER SIDE YARD REGULATIONS. (9/13/05, Case TA-05-04, Ord. No. 027-2005)

- 5-8-1 For single family dwellings: fifteen (15) feet or more.
- 5-8-2 For two family and townhouse dwellings: twenty (20) feet or more.
- 5-8-3 For multifamily dwellings and all other uses: twenty-five (25) feet or more. (9/11/01, Case TA-01-03, Ord. No. 028-2001)

SECTION 5-9. ACCESS.

- 5-9-1 Each townhouse lot shall front on a dedicated public street or the governing body may accept a twenty-four (24) foot minimum pavement width private street. If the access is to be provided by means of a private street, the following minimum standards of development shall be observed: (3/14/89, Case TA-88-18, Ord. No. 009-89)
 - 5-9-1.1 Surfacing shall be to City street standards
 - 5-9-1.2 A sidewalk four (4) feet in width on at least one side of the street, constructed of concrete, brick, or stone, or some other material of reasonable durability and safeness shall be provided.
 - 5-9-1.3 The external radius of all cul-de-sacs shall be at least forty (40) feet with a paved travel lane at least fifteen (15) feet wide.

SECTION 5-10. MANAGEMENT OF COMMON OPEN SPACE AND PRIVATE STREETS.

All common open spaces and private streets, required or permitted in this Article shall be preserved for their intended purpose as expressed in the Final Site Plan.

- 5-10-1 There shall be an establishment of a nonprofit association, corporation, trust, or foundation of all individuals or corporations owning residential property within the development to ensure the maintenance of common open space, and private streets.
- 5-10-2 When the development is to administer common open space and private streets through a nonprofit association, corporation, trust, or foundation, said organization shall conform to the following requirements:
 - 5-10-2.1 The developer must establish the organization prior to the sale of any lots.
 - 5-10-2.2 Membership in the organization shall be mandatory for all residential property owners, present or future, within the development and said organization shall not discriminate in its members or shareholders.

HIGH DENSITY RESIDENTIAL DISTRICT - HR

- 5-10-2.3 The organization shall manage all common open space, private streets, and recreational and cultural facilities; shall provide for the maintenance, administration and operation of said land and improvements and any other common land within the development.
- 5-10-3 Failure to maintain common open space and private streets.
- 5-10-3.1 In the event that the organization established to own and maintain common open space and private streets or any successor organization, shall at any time after establishment of the development fail to maintain the common open space and private streets in reasonable order and condition in accordance with the site plan, the City Council may serve written notice upon such organization or upon the residents of the development setting forth the manner in which the organization has failed to maintain the common open space and private streets in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be remedied within thirty (30) days thereof, and shall state the date and place of a hearing thereon which shall be held within fourteen (14) days of the notice. At such hearing the City Council may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be remedied. If the deficiencies set forth in the original notice or in the modifications thereof shall not be remedied within said thirty (30) days or any extension thereof, the City, in order to preserve the taxable values of the properties within the development and to prevent the common open space and private streets from becoming a public nuisance, may enter upon said common open space and private streets and maintain the same for a period of one (1) year. Said entry and maintenance shall not vest in the public any rights to use the common open space and private streets except when the same are voluntarily dedicated to the public by the owners. Before the expiration of the said year, the City shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the common open space and private streets, call a public hearing upon notice to such organization, or to the residents of the development, to be held by the City Council, at which hearing such organization or the residents of the development shall show cause why such maintenance by the City shall not at the election of the City Council continue for a succeeding year. If the City Council shall determine that said organization is ready and able to maintain said common open space and private streets in a reasonable condition, the City council shall cease to maintain said common open space and private streets at the end of said year. If the City Council shall determine that said organization is not ready or able to maintain the common open space and private streets in a good, clean and safe condition the City Council may, in its discretion, continue to maintain said space, subject to a similar hearing and determination in the next succeeding year and in each year thereafter.
- 5-10-3.2 The cost of such maintenance by the City shall be assessed ratably against the properties within the development that have a right of enjoyment of the common open space and private streets and shall become a tax lien on said properties. The City at the time of entering upon said common open space and private streets for the purpose of maintenance, shall file a notice of such lien in the office of the Clerk of the Circuit Court upon the properties affected by such lien with the development.

WINCHESTER ZONING ORDINANCE

5-10-3.3 Subsection 5-10-3.1 and 5-10-3.2 shall be included in the deed of dedication.