

ORDINANCE NO. 15-18()

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE I, GENERAL REGULATIONS, ARTICLE II, BASIC REGULATIONS, AND ARTICLE III, DISTRICT REGULATIONS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article I, General Regulations, Article II, Basic Regulations, and Article III, District Regulations, are hereby amended and reordained as follows:

By Amending:

Sec. 3.1 Definitions
Sec. 13.3 Area and bulk regulations
Sec. 14.3 Area and bulk regulations
Sec. 15.3 Area and bulk regulations
Sec. 16.3 Area and bulk regulations
Sec. 16.6 Building separation
Sec. 17.3 Area and bulk regulations
Sec. 17.6 Building separation
Sec. 17.8 Height regulations
Sec. 18.3 Area and bulk regulations
Sec. 18.6 Building separation
Sec. 18.8 Height regulations
Sec. 19.7 Height regulations
Sec. 19.8 Building separation
Sec. 19.9 Setback and yard regulations
Sec. 20.8.4 Height regulations
Sec. 20.8.5 Building separation
Sec. 20.8.6 Setback and yard regulations
Sec. 21.4 Height regulations
Sec. 21.7 Minimum yard requirements
Sec. 21.9 Building separation
Sec. 26.4 Structure height and setback
Sec. 26.5 Minimum yards

By Adding:

Sec. 4.19 Setbacks and setbacks in residential districts
Sec. 4.20 Setbacks and setbacks in conventional commercial and industrial districts

Article I. General Provisions

Sec. 3.1 Definitions.

...

Infill: As used in section 4.19, when forty percent (40%) or more, in the aggregate, of the residentially zoned lots fronting on a street are developed within five hundred (500) feet in both directions of the subject lot having less than one hundred twenty (120) feet of frontage on the same street at the time that it is developed.

...

Setback: The distance by which any building or structure is separated from any street, road, ~~or~~ access easement, or lot line. (Amended 7-1-81)

...

(§ 20-3.1, 12-10-80, 7-1-81, 12-16-81, 2-10-82, 6-2-82, 1-1-83, 7-6-83, 11-7-84, 7-17-85, 3-5-86, 1-1-87, 6-10-87, 12-2-87, 7-20-88, 12-7-88, 11-1-89, 6-10-92, 7-8-92, 9-15-93, 8-10-94, 10-11-95, 11-15-95, 10-9-96, 12-10-97; § 18-3.1, Ord. 98-A(1), 8-5-98; Ord. 01-18(6), 10-3-01; Ord. 01-18(9), 10-17-01; Ord. 02-18(2), 2-6-02; Ord. 02-18(5), 7-3-02; Ord. 02-18(7), 10-9-02; Ord. 03-18(1), 2-5-03; Ord. 03-18(2), 3-19-03; Ord. 04-18(2), 10-13-04; Ord. 05-18(2), 2-2-05; Ord. 05-18(7), 6-8-05; Ord. 05-18(8), 7-13-05; Ord. 06-18(2), 12-13-06; Ord. 07-18(1), 7-11-07; Ord. 07-18(2), 10-3-07; Ord. 08-18(3), 6-11-08; Ord. 08-18(4), 6-11-08; Ord. 08-18(6), 11-12-08; Ord. 08-18(7), 11-12-08; Ord. 09-18(3), 7-1-09; Ord. 09-18(5), 7-1-09; Ord. 09-18(8), 8-5-09; Ord. 09-18(9), 10-14-09; Ord. 09-18(10), 12-2-09; Ord. 09-18(11), 12-10-09; Ord. 10-18(3), 5-5-10; Ord. 10-18(4), 5-5-10; Ord. 10-18(5), 5-12-10; Ord. 11-18(1), 1-12-11; Ord. 11-18(5), 6-1-11; Ord. 11-18(6), 6-1-11; Ord. 12-18(3), 6-6-12; Ord. 12-18(4), 7-11-12; Ord. 12-18(6), 10-3-12, effective 1-1-13; Ord. 12-18(7), 12-5-12, effective 4-1-13; Ord. 13-18(1), 4-3-13; Ord. 13-18(2), 4-3-13; Ord. 13-18(3), 5-8-13; Ord. 13-18(5), 9-11-13; Ord. 13-18(6), 11-13-13, effective 1-1-14; Ord. 13-18(7), 12-4-13, effective 1-1-14; Ord. 14-18(2), 3-5-14)

State law reference – Va. Code § 15.2-2286(A)(4).

Article II. Basic Regulations

Sec. 4.19 Setbacks and setbacks in residential districts

The following shall apply within the R-1, R-2, R-4, R-6, R-10, and R-15 districts:

<u>Infill: Setbacks</u>	
<u>Front-Minimum</u>	<u>Closest setback of an existing structure within 500 feet in each direction along street fronted</u>
<u>Front-Maximum</u>	<u>None</u>
<u>Garage-Minimum</u>	<u>Front loading garage: 18 feet from the right-of-way or the exterior edge of the sidewalk if the sidewalk is outside of the right-of-way</u> <u>Side loading garage: Closest setback of an existing structure within 500 feet in each direction along street fronted</u>
<u>Garage-Maximum</u>	<u>None</u>
<u>Side-Minimum</u>	<u>10 feet, unless the building shares a common wall; provided that in the R-10 and R-15 districts if the abutting lot is zoned residential other than R-10 and R-15, Rural Areas, or the Monticello Historic district, any dwelling unit that exceeds 35 feet in height shall be set back 10 feet plus one foot for each foot the dwelling unit exceeds 35 feet in height</u>
<u>Side-Maximum</u>	<u>None</u>
<u>Rear-Minimum</u>	<u>20 feet</u>
<u>Rear- Maximum</u>	<u>None</u>

<u>Infill: Stepbacks</u>	
<u>Front</u>	<u>Floors above 40 feet or the third story, whichever is less, shall be stepped back a minimum of 15 feet</u>
<u>Side and Rear</u>	<u>None</u>
<u>Non-Infill: Setbacks</u>	
<u>Front-Minimum</u>	<u>5 feet from the right-of-way or the exterior edge of the sidewalk if the sidewalk is outside of the right-of-way</u>
<u>Front-Maximum</u>	<u>In the R-1 and R-2 districts: None</u> <u>In the R-4, R-6, R-10, and R-15 districts: 25 feet from the right-of-way or the exterior edge of the sidewalk if the sidewalk is outside of the right-of-way; none, on any lot abutting a principal arterial highway</u>
<u>Garage-Minimum</u>	<u>Front loading garage: 18 feet from the right-of-way or the exterior edge of the sidewalk if the sidewalk is outside of the right-of-way</u> <u>Side loading garage: 5 feet from the right-of-way or the exterior edge of the sidewalk if the sidewalk is outside of the right-of-way</u>
<u>Garage-Maximum</u>	<u>None</u>
<u>Side-Minimum</u>	<u>None; see Non-Infill Building Separation</u>
<u>Side-Maximum</u>	<u>None</u>
<u>Rear-Minimum</u>	<u>20 feet</u>
<u>Rear- Maximum</u>	<u>None</u>
<u>Non-Infill:Building Separation</u>	
<u>Minimum</u>	<u>10 feet, unless the building shares a common wall; provided that in the R-10 and R-15 districts if the abutting lot is zoned residential other than R-10 and R-15, rural areas, or the Monticello Historic district, any building that exceeds 35 feet in height shall be separated from any other building by 10 feet plus one foot for each foot the building exceeds 35 feet in height</u>
<u>Side-Maximum</u>	<u>None</u>
<u>Non-Infill: Stepbacks</u>	
<u>Front</u>	<u>Floors above 40 feet or the third story, whichever is less, shall be stepped back a minimum of 15 feet</u>
<u>Side and Rear</u>	<u>None</u>

1. Whether a site is an infill or non-infill development, and the minimum and maximum setback, shall be determined by the zoning administrator as an official determination provided to the owner.
2. Any minimum setback and any minimum building separation for a side yard, may be reduced by special exception.
3. The maximum front setback for a non-infill development shall be increased to the depth necessary to avoid existing utilities, significant existing vegetation steep slopes, perennial and intermittent streams, stream buffers, public spaces

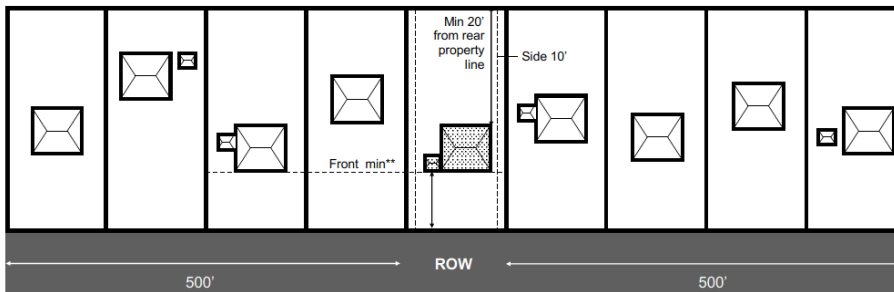
- and public plazas shown as such on an approved site plan or subdivision plat, to satisfy a condition of a certificate of appropriateness, and in circumstances where there are multiple dwellings on the same lot and prevailing development patterns..
4. The maximum front setback for a non-infill development may be increased by special exception to accommodate low impact design, unique parking or circulation plans, or a unique target market design.
5. The minimum 15 foot setback may be reduced by special exception.
6. Notwithstanding section 4.6.3, the front setbacks in the districts subject to this section shall be measured from the right-of-way or the exterior edge of the sidewalk if the sidewalk is outside of the right-of-way.
7. On any site subject to proffered conditions accepted in conjunction with a zoning map amendment establishing minimum or maximum setbacks or stepbacks, the proffered setbacks or stepbacks shall apply.

Figures

Figures 1 through 4 are for illustration purposes only. If there is a conflict or inconsistency between a regulation in section 4.19 to which a Figure pertains and the Figure itself, the regulation is controlling. In addition, Figures 1 through 4 merely illustrate specific requirements and do not show all applicable requirements of the applicable district regulations.

Figure 1

Conventional Residential Districts, Infill* Example

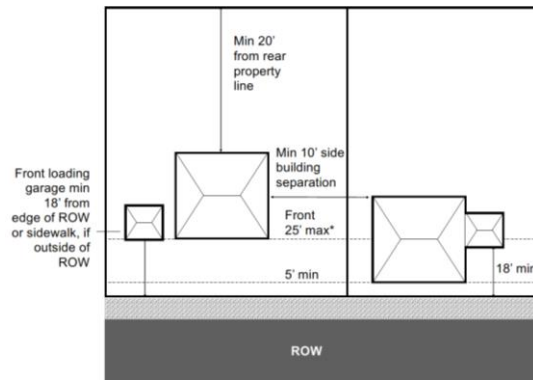


* Infill $\geq 40\%$ of residentially zoned frontage developed within 500' of subject lot (frontage $\leq 120'$)

** Front loading garage min 18' from edge of ROW or sidewalk, if outside of ROW

Figure 2

Conventional Residential Districts (except R-1 and R-2), Non-infill



* No maximum front setback in R1 & R2 districts & along principal arterials

Figure 3

**Conventional Residential Districts
Front Stepback (side view)**

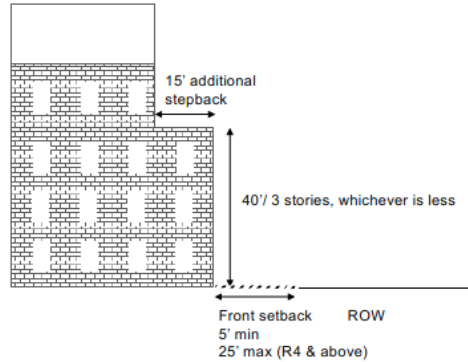
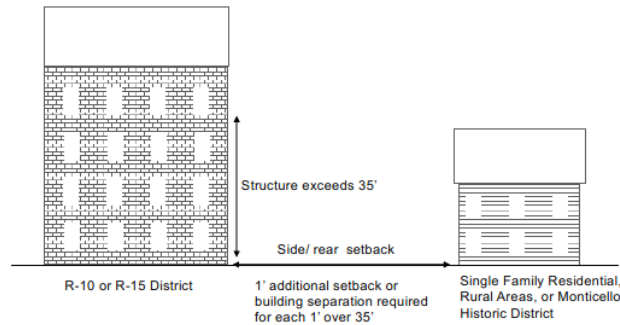


Figure 4

**Conventional Residential Districts (R-10 or R-15 only)
Abutting Single Family Residential, Rural Areas, or
Monticello Historic Districts, Side & Rear Setback**



State law reference – Va. Code § 15.2-2280

Sec. 4.20 Setbacks and stepbacks in conventional commercial and industrial districts

Setbacks and stepbacks shall be provided as follows:

a. Conventional commercial districts. The following shall apply within the C-1, CO, and HC districts:

<u>Setbacks</u>	
<u>Front-Minimum</u>	<u>10 feet from the right-of-way or the exterior edge of the sidewalk if the sidewalk is outside of the right-of-way</u>
<u>Front-Maximum</u>	<u>30 feet from the right-of-way or the exterior edge of the sidewalk if the sidewalk is outside of the right-of-way, provided that this maximum setback shall not apply to any structure existing on June 3, 2015 and to any structure depicted on an approved final site</u>

<u>Side and Rear-Minimum</u>	<u>plan that is valid on June 3, 2015 as having a front setback greater than 30 feet; none, on any lot abutting a principal arterial highway</u>
<u>Side and Rear-Maximum</u>	<u>If the abutting lot is zoned residential, rural areas, or the Monticello Historic district: (i) no portion of any structure, excluding signs, shall be located closer than 50 feet from the district boundary; and (ii) no off-street parking or loading space shall be located closer than 20 feet to the district boundary.</u> <u>If the abutting lot is zoned commercial or industrial, any primary structure shall be constructed and separated in accordance with the current edition of the Building Code.</u>
<u>Stepbacks</u>	<u>None</u>
<u>Front</u>	<u>Floors above 40 feet or the third story, whichever is less, shall be stepped back a minimum of 15 feet</u>
<u>Side and Rear</u>	<u>None</u>

1. The maximum front setback shall be increased to the depth necessary to avoid existing utilities, significant existing vegetation, steep slopes, perennial and intermittent streams, stream buffers, public spaces and public shown as such on an approved site plan or subdivision plat, to satisfy a condition of a certificate of appropriateness, and in circumstances where there are multiple buildings on the same lot and prevailing development patterns.
2. The maximum front setback may be increased by special exception to accommodate low impact design, unique parking or circulation plans, or a unique target market design.
3. Any minimum setback may be reduced by special exception.
4. The minimum 15 foot stepback may be reduced by special exception.
5. Notwithstanding section 4.6.3, the front setbacks in the districts subject to this subsection shall be measured from the right-of-way or the exterior edge of the sidewalk if the sidewalk is outside of the right-of-way.
6. On any site subject to proffered conditions accepted in conjunction with a zoning map amendment establishing minimum or maximum setbacks or stepbacks, the proffered setbacks or stepbacks shall apply.

b. *Conventional industrial districts.* The following shall apply within the LI and HI districts:

<u>Setbacks</u>	
<u>Front-Minimum</u>	<u>10 feet from the right-of-way or the exterior edge of the sidewalk if the sidewalk is outside of the right-of-way</u>
<u>Front-Maximum</u>	<u>None</u>
<u>Side and Rear-Minimum</u>	<u>In the LI district, if the abutting lot is zoned residential, rural areas, or the Monticello Historic district: (i) no portion of any structure, excluding signs, shall be located closer than 50 feet from the district boundary; and (ii) no portion of any off-street parking space shall be located closer than 30 feet from the district boundary.</u> <u>In the HI district, if the abutting lot is zoned residential, rural areas, or the Monticello Historic district: (i) no portion of any structure, excluding signs, shall be located closer than 100 feet from the district boundary; and (ii) no portion of any off-street parking space shall be located closer than 30 feet from the district boundary.</u> <u>If the abutting lot is zoned commercial or industrial, any primary structure shall be constructed and separated in accordance with the current edition of the Building Code.</u>

<u>Side and Rear- Maximum</u>	<u>None</u>
<u>Stepbacks</u>	
<u>Front</u>	<u>Floors above 40 feet or the third story, whichever is less, shall be stepped back a minimum of 15 feet</u>
<u>Side and Rear</u>	<u>None</u>

1. Any maximum front setback may be increased by special exception.
2. Any minimum setback may be reduced by special exception.
3. The minimum 15 foot stepback may be reduced by special exception.
4. Notwithstanding section 4.6.3, the front setbacks in the districts subject to this subsection shall be measured from the right-of-way or the exterior edge of the sidewalk if the sidewalk is outside of the right-of-way.
5. On any site subject to proffered conditions accepted in conjunction with a zoning map amendment establishing minimum or maximum setbacks or stepbacks, the proffered setbacks or stepbacks shall apply.

Figures

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Figure 1

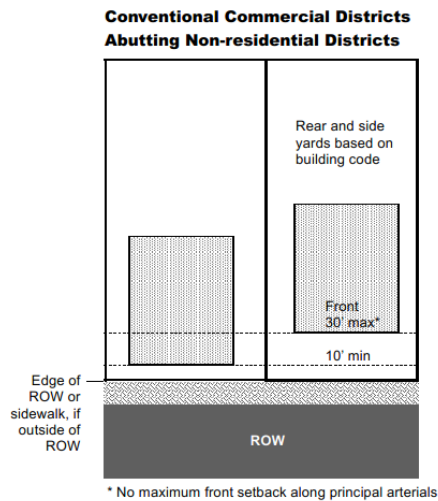


Figure 2

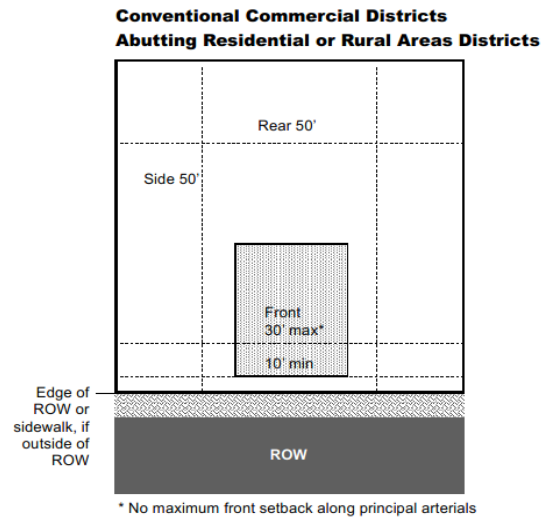


Figure 3

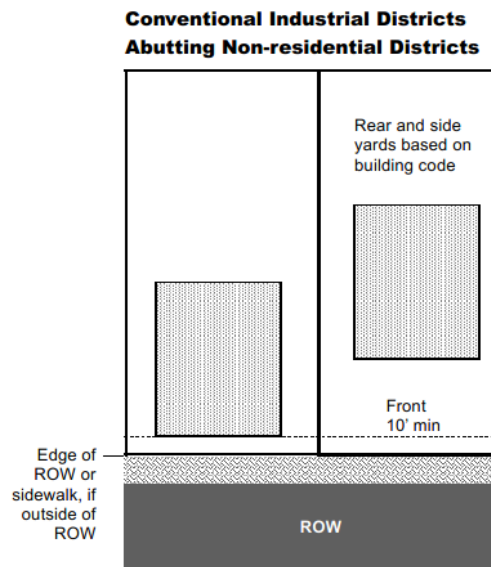


Figure 4

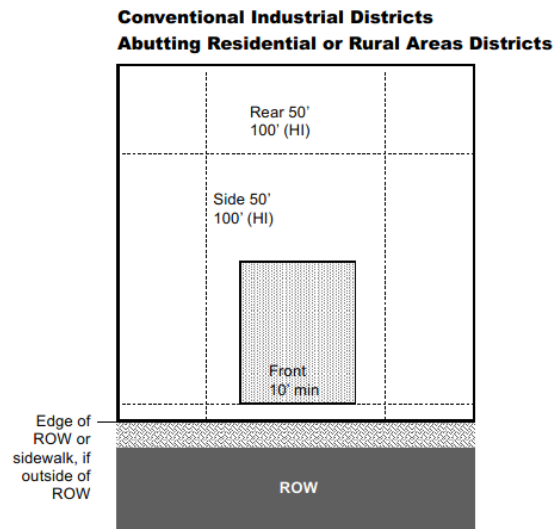


Figure 5

**Conventional Commercial Districts,
Front Stepback (side view)**

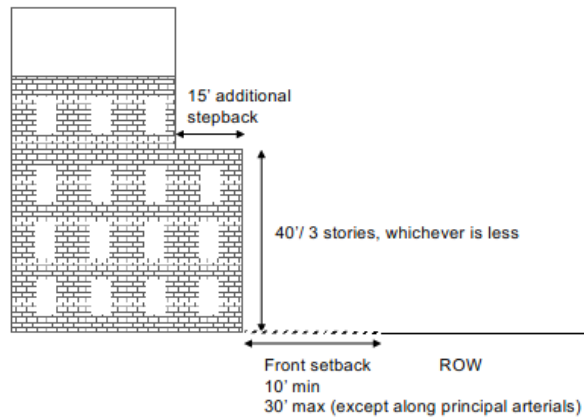
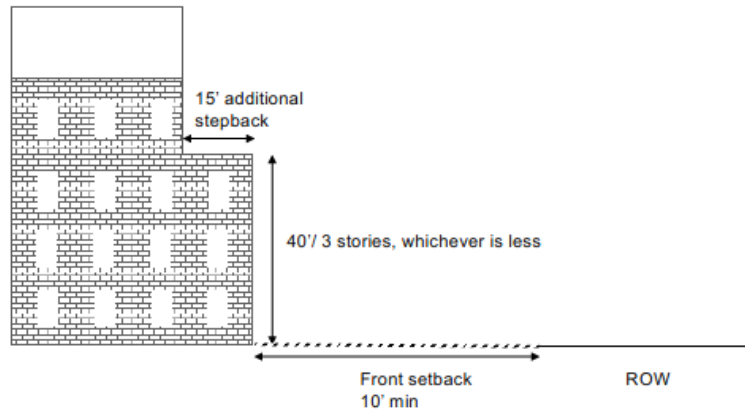


Figure 6

**Conventional Industrial Districts,
Front Stepback (side view)**



State law reference – Va. Code § 15.2-2280

Article III. District Regulations

Section 13

Residential R-1

Sec. 13.3 Area and bulk regulations

AREA AND BULK REGULATIONS

Area and bulk regulations within the R-1, Residential, district are as follows:

REQUIREMENTS	STANDARD LEVEL		BONUS LEVEL	
	CONVENTIONAL DEVELOPMENT	CLUSTER DEVELOPMENT	CONVENTIONAL DEVELOPMENT	CLUSTER DEVELOPMENT
Gross density	0.97 du/acre	0.97 du/acre	1.45 du/acre	1.45du/acre
Minimum Lot Size	45,000 sq ft	30,000 sq ft	30,000 sq ft.	20,000 sq ft
Minimum frontage: public, private	120 feet	100 feet	100 feet	80 feet
Yards, minimum:				
Front	25 feet	25 feet	25 feet	25 feet
Side	15 feet	15 feet	15 feet	15 feet
Rear	20 feet	20 feet	20 feet	20 feet
<u>The minimum and maximum yards, including those for garages, and minimum building separation, shall be as provided in section 4.19.</u>				
Maximum Structure height	35 feet	35 feet	35 feet	30 feet

Section 14

Residential R-2

Sec. 14.3 Area and bulk regulations

Area and bulk regulations within the R-2, Residential, district are as follows:

REQUIREMENTS	STANDARD LEVEL		BONUS LEVEL	
	CONVENTIONAL DEVELOPMENT	CLUSTER DEVELOPMENT	CONVENTIONAL DEVELOPMENT	CLUSTER DEVELOPMENT
Gross density	2 du/acre	2 du/acre	3 du/acre	3 du/acre
Minimum Lot Size	21,780 sq ft	14,500 sq ft	14,520 sq ft.	9,700 sq ft
Minimum frontage: public, private	80 feet	70 feet	70 feet	65 feet
Yards, minimum:				
Front	25 feet	25 feet	25 feet	25 feet
Side	10 feet	10 feet	10 feet	10 feet
Rear	20 feet	20 feet	20 feet	20 feet
(a) Minimum side yards may be reduced to not less than ten (10) feet in accordance with section 4.11.3, provided that minimum side yards may be reduced to zero (0) feet on one side in zero lot line developments in accordance with section 4.11.3 and are approved under chapter 14. The minimum and maximum yards, including those for garages, and minimum building separation, shall be as provided in section 4.19.				
Maximum Structure height	35 feet	35 feet	35 feet	35 feet

(§ 20-14.3, 12-10-80; Ord. 08-18(4), 6-11-08)

Section 15

Residential R-4

Sec. 15.3 Area and bulk regulations (Amended 3-18-81)

Area and bulk regulations within the R-4, Residential, district are as follows:

REQUIREMENTS	STANDARD LEVEL		BONUS LEVEL	
	CONVENTIONAL DEVELOPMENT	CLUSTER DEVELOPMENT	CONVENTIONAL DEVELOPMENT	CLUSTER DEVELOPMENT
Gross density	4 du/acre	4 du/acre	6 du/acre	6 du/acre
Minimum Lot Size	(added 7-17-85) 10,890 sq ft	N/A	7,260 sq ft.	N/A
Yards, minimum:				
Front	25 feet	25 feet	25 feet	25 feet
Side ^(a)	15 feet	15 feet	15 feet	15 feet
Rear	20 feet	20 feet	20 feet	20 feet
(a) Minimum side yards may be reduced to not less than ten (10) feet in accordance with section 4.11.3, provided that minimum side yards may be reduced to zero (0) feet on one side in zero lot line developments in accordance with section 4.11.3 and are approved under chapter 14. The minimum and maximum yards, including those for garages, and minimum building separation, shall be as provided in section 4.19. (Amended 1-1-83; 6-11-08)				
Maximum Structure height	35 feet	35 feet	35 feet	35 feet

(§ 20-15.3, 12-10-80; 1-1-83; 7-17-85; Ord. 08-18(4), 6-11-08)

Section 16

Residential R-6

Sec. 16.3 Area and bulk regulations

Area and bulk regulations within the R-6, Residential, district are as follows:

REQUIREMENTS	STANDARD LEVEL		BONUS LEVEL	
	CONVENTIONAL DEVELOPMENT	CLUSTER DEVELOPMENT	CONVENTIONAL DEVELOPMENT	CLUSTER DEVELOPMENT
Gross density	6 du/acre	6 du/acre	9 du/acre	9du/acre
Minimum Lot Size	(Added 7-17-85) 7,260 sq ft	N/A	4,840 sq ft.	N/A
Yards, minimum:				
Front	25 feet	25 feet	25 feet	25 feet
Side ^(a)	15 feet	15 feet	15 feet	15 feet
Rear	20 feet	20 feet	20 feet	20 feet
(a) Minimum side yards may be reduced to not less than ten (10) feet in accordance with section 4.11.3, provided that minimum side yards may be reduced to zero (0) feet on one side in zero lot line developments in accordance with section 4.11.3 and are approved under chapter 14. <u>The minimum and maximum yards, including those for garages, shall be as provided in section 4.19.</u> (Amended 1-1-83, 6-11-08)				
Maximum Structure height	35 feet	35 feet	35 feet	35 feet

(§20-16.3, 12-10-80; 1-1-83; 7-17-85; Ord. 08-18(4), 6-11-08)

Sec. 16.6 Building separation

~~In any case in which there is more than one main structure on any parcel, there shall be a minimum of thirty (30) feet between such structures except as otherwise provided in section 4.11.3. This provision shall not apply to structures built to a common wall. The minimum building separation shall be as provided in section 4.19.~~ (Amended 1-1-83) (Amended 8-14-85)

Section 17

Residential R-10

Sec. 17.3 Area and bulk regulations

Area and bulk regulations within the R-10, Residential, district are as follows:

REQUIREMENTS	STANDARD LEVEL		BONUS LEVEL	
	CONVENTIONAL DEVELOPMENT	CLUSTER DEVELOPMENT	CONVENTIONAL DEVELOPMENT	CLUSTER DEVELOPMENT
Gross density	10 du/acre	10 du/acre	15 du/acre	15du/acre
Minimum Lot Size	(Added 7-17-85) 4,356 sq ft	N/A	2,904 sq ft.	N/A
Yards, minimum:				
Front	25 feet	25 feet	25 feet	25 feet
Side ^(a)	15 feet	15 feet	15 feet	15 feet
Rear	20 feet	20 feet	20 feet	20 feet
(a) Minimum side yards may be reduced to not less than (10) feet in accordance with section 4.11.3, provided that minimum side yards may be reduced to zero (0) feet on one side in zero lot line developments in accordance with section 4.11.3 and are approved under chapter 14. <u>The minimum and maximum yards, including those for garages, shall be as provided in section 4.19.</u>				
Maximum Structure height	65 feet	65 feet	65 feet	65 feet

(§ 20-17.3, 12-10-80; 7-17-85; Ord. 08-18(4), 6-11-08)

Sec. 17.6 Building separation

~~In any case in which there is more than one main structure on any parcel, there shall be a minimum of thirty (30) feet between such structures except as otherwise provided in section 4.11.3. This provision shall not apply to structures built to a common wall. The minimum building separation shall be as provided in section 4.19. (Amended 1-1-83)~~

Sec. 17.8 Height regulations

~~Except as otherwise provided in section 4.10, structures may be erected to a height not to exceed sixty-five (65) feet; provided that any structure exceeding thirty-five (35) feet in height shall be set back from any street right of way or single-family residential or agricultural district; in addition to minimum yard requirements, a distance of not less than two (2) feet for each one (1) foot of height in excess of thirty-five (35) feet. The minimum setback requirements for any structure exceeding forty (40) feet or three (3) stories, whichever is less, in height shall be as provided in section 4.19. (Amended 9- 9-92) (Amended 8-14-85)~~

Section 18**Residential R-15****Sec. 18.3 Area and bulk regulations**

Area and bulk regulations within the R-15, Residential, district are as follows:

REQUIREMENTS	STANDARD LEVEL		BONUS LEVEL	
	CONVENTIONAL DEVELOPMENT	CLUSTER DEVELOPMENT	CONVENTIONAL DEVELOPMENT	CLUSTER DEVELOPMENT
Gross density	15 du/acre	15 du/acre	20 du/acre	20 du/acre
Minimum Lot Size	(Added 7-17-85) 2,904 sq ft	N/A	2,178 sq ft.	N/A
Yards, minimum:				
Front	25 feet	25 feet	25 feet	25 feet
Side ^(a)	15 feet	15 feet	15 feet	15 feet
Rear	20 feet	20 feet	20 feet	20 feet
(a) Minimum side yards may be reduced to not less than ten (10) feet in accordance with section 4.11.3, provided that minimum side yards may be reduced to zero (0) feet on one side in zero lot line developments in accordance with section 4.11.3 and are approved under chapter 14. The minimum and maximum yards, including those for garages, shall be as provided in section 4.19. (Amended 1-1-83)				
Maximum Structure height	65 feet	65 feet	65 feet	65 feet

(§ 20-18.3, 12-10-80, 6-11-08; 1-1-83; 7-17-85; Ord. 08-18(4), 6-11-08)

Sec. 18.6 Building separation

~~In any case in which there is more than one main structure on any parcel, there shall be a minimum of thirty (30) feet between such structures except as otherwise provided in section 4.11.3. This provision shall not apply to structures built to a common wall. The minimum building separation shall be as provided in section 4.19. (Amended 1-1-83)~~

Sec. 18.8 Height regulations

~~Except as otherwise provided in section 4.10, structures may be erected to a height not to exceed sixty-five (65) feet; provided that any structure exceeding thirty-five (35) feet in height shall be set back from any~~

~~street right of way or single family residential or agricultural district; in addition to minimum yard requirements, a distance of not less than two (2) feet for each one (1) foot of height in excess of thirty-five (35) feet. The minimum setback requirements for any structure exceeding forty (40) feet or three (3) stories, whichever is less, in height shall be as provided in section 4.19. (Amended 9- 9-92) (Amended 8-14-85)~~

Section 19

Planned Residential Development – PRD

Sec. 19.7 Height regulations

Except as otherwise provided in section 4.10, structures may be erected to a height not to exceed sixty-five (65) feet; ~~provided that any structure exceeding thirty-five (35) feet in height shall be set back from any street right of way or single family residential or agricultural district; in addition to minimum yard requirements, a distance of not less than two (2) feet for each one (1) foot of height in excess of thirty-five (35) feet. The minimum setback requirements for any structure exceeding forty (40) feet or three (3) stories, whichever is less, in height shall be as provided in section 4.19. (Amended 9- 9-92)~~

Sec. 19.8 Building separation

~~Except as otherwise provided in section 4.11.3, whether or not located on the same parcel, there shall be a minimum of thirty (30) feet between main structures. This provision shall not apply to structures built to a common wall. The minimum building separation shall be as provided in section 4.19. (Amended 1-1-83)~~

Sec. 19.9 Setbacks and yard regulations

- 19.9.1 ~~Structures to be located on the outer perimeter of a PRD district shall conform to the setback and yard regulations of the adjoining district.~~
- 19.9.2 ~~Within the PRD district, the board of supervisors shall establish minimum setback and yard requirements at time of establishment of such district.~~

The minimum and maximum yards, including those for garages, shall be as provided in section 4.19.

Section 20

Planned Unit Development – PUD

Sec. 20.8.4 Height regulations

Except as otherwise provided in section 4.10, structures may be erected to a height not to exceed sixty-five (65) feet; ~~provided that any structure exceeding thirty-five (35) feet in height shall be set back from any street right of way or single family residential or agricultural district; in addition to minimum yard requirements, a distance of not less than two (2) feet for each one (1) foot of height in excess of thirty-five (35) feet. The minimum setback requirements for any structure exceeding forty (40) feet or three (3) stories, whichever is less, in height shall be as provided in section 4.19. (Amended 9-9-92)~~

Sec. 20.8.5 Building separation

~~Except as otherwise provided in section 4.11.3, whether or not located on the same parcel there shall be a minimum of thirty (30) feet between main structures. This provision shall not apply to structures built to a common wall. The minimum building separation shall be as provided in section 4.19. (Amended 1-1-83)~~

Sec. 20.8.6 Setback and yard regulations

~~Structures to be located on the outer perimeter of a PUD district shall conform to the setback and yard regulations of the adjoining district.~~

~~Within the PUD district, the board of supervisors shall establish minimum setback and yard requirements at time of establishment of such district.~~

The minimum and maximum yards, including those for garages, shall be as provided in section 4.19.

Section 21

Commercial Districts – Generally

Sec. 21.4 Height regulations

~~Except as otherwise provided in section 4.10, structures may be erected to a height not to exceed sixty-five (65) feet; provided that any structure exceeding thirty-five (35) feet in height shall be set back from any street right of way or single-family residential or agricultural district; in addition to minimum yard requirements, a distance of not less than two (2) feet for each one (1) foot of height in excess of thirty-five (35) feet. The minimum setback requirements for any structure exceeding forty (40) feet or three (3) stories, whichever is less, in height shall be as provided in section 4.20. (Amended 9-9-92)~~

Sec. 21.7 Minimum yard requirements

The minimum yard requirements in the commercial districts are as follows:

- a. ~~Adjacent to public streets. No portion of any structure, excluding signs, shall be erected closer than thirty (30) feet to any public street right of way. No off-street parking or loading space shall be located closer than ten (10) feet to any public street right of way. The minimum and maximum front yards shall be as provided in section 4.20. (Amended 7-10-85; 7-8-92)~~
- b. ~~Adjacent to residential and rural areas, or the Monticello Historic districts and rural areas districts. No portion of any structure, excluding signs, shall be located closer than fifty (50) feet to any residential or rural areas district. No off-street parking or loading space shall be located closer than twenty (20) feet to any residential or rural areas district. If the abutting lot is zoned residential, rural areas, or the Monticello Historic district, the minimum and maximum side and rear yards shall be as provided in section 4.20. (Amended 7-10-85; 7-8-92)~~
- c. Buffer zone adjacent to residential and rural areas districts. No construction activity including grading or clearing of vegetation shall occur closer than twenty (20) feet to any residential or rural areas district. Screening shall be provided as required in section 32.7.9. The board of supervisors may waive by special exception the prohibition of construction activity, grading or the clearing of vegetation in the buffer in a particular case upon consideration of whether: (i) the developer or subdivider demonstrates that grading or clearing is necessary or would result in an improved site

design; (ii) minimum screening requirements will be satisfied; and (iii) existing landscaping in excess of minimum requirements is substantially restored. (Amended 9-9-92)

1. ~~Waiver by the commission.~~ The commission may waive the prohibition of construction activity, grading or the clearing of vegetation in the buffer in a particular case where the developer or subdivider demonstrates that grading or clearing is necessary or would result in an improved site design, provided that: (i) minimum screening requirements are met and (ii) existing landscaping in excess of minimum requirements is substantially restored. (Added 7-10-85)
2. ~~Waiver by the agent.~~ In accordance with the procedures stated in section 2.5 of this chapter, the agent may waive the prohibition of construction activity, grading or the clearing of vegetation in the buffer zone in the following circumstances: (i) adequate landscape screening does not currently exist and the installation of screening which meets or exceeds the requirements of this chapter would result in disturbance to the buffer; (ii) an arborist or landscape architect certifies that trees in the buffer are dying, diseased or will constitute a fall hazard; (iii) the county engineer determines that disturbance of the buffer is necessary in order to address an existing drainage problem; or (iv) disturbance of the buffer will result in improved screening through the use of a berm, a retaining wall or similar physical modification or improvement. In such a case, the developer or subdivider shall illustrate the result of both the existing screening without disturbance of the buffer and the screening that would be provided as a result of the disturbance of the buffer.

(12-10-80, §§ 21.7, 21.7.1, 21.7.2, 21.7.3; 7-10-85, 7-8-92, 9-9-92; Ord. 01-18(3), 5-9-01; Ord. 09-18(1), 1-14-09, § 21.7)

Sec. 21.9 Building separation

~~Whether or not located on the same parcel, main structures shall be constructed and separated in accordance with Table 401 Fire Resistance Ratings of Structure Elements of the BOCA Basic Building Code, 1994 Edition or its equivalent in the current edition of the BOCA Basic Building Code. The minimum building separation shall be as provided in section 4.20.~~ (Amended 10-15-06)

Section 26

Industrial Districts – Generally

Sec 26.4 Structure height and setback

(Formerly Standard Ratios, Repealed 4-3-13)

~~The maximum structure height and minimum setback for structures exceeding thirty five (35) feet in height in the industrial districts are as follows:~~

- a. ~~Maximum height.~~ Except as otherwise provided in section 4.10, structures may be erected to a height not to exceed sixty-five (65) feet. The minimum setback requirements for any structure exceeding forty (40) feet or three (3) stories, whichever is less, in height shall be as provided in section 4.20.
- b. ~~Minimum setback.~~ Any structure exceeding thirty five (35) feet in height shall be set back from any street right of way or residential or agricultural district a distance of not less than two (2) feet for each one (1) foot of height in excess of thirty five (35) feet plus the applicable minimum yard.

(§ 26.4, Ord. 13-18(1), 4-3-13; § 26.6, 12-10-80, 9-9-92)

Sec. 26.5 Minimum yards

(Formerly Off-Street Parking and Loading Requirements, Repealed 4-3-13)

The minimum yard requirements in the industrial districts are as follows:

- a. ~~Adjacent to public streets. No portion of any structure, excluding signs, shall be located within fifty (50) feet of any public street right-of-way. No portion of any off-street parking or loading space shall be located within ten (10) feet of any public street right-of-way. The minimum and maximum front yards shall be as provided in section 4.20.~~
- b. ~~Adjacent to district other than commercial or industrial district. No portion of any structure, excluding signs, shall be located within fifty (50) feet of any district other than a commercial or industrial district and no portion of any off-street parking space shall be located within thirty (30) feet of any district other than a commercial or industrial district. In the heavy industry (HI) district, no portion of any structure, excluding signs, shall be located within one hundred (100) feet of any district other than a commercial or industrial district and no portion of any off-street parking shall be located within thirty (30) feet of any district other than a commercial or industrial district. If the abutting lot is zoned residential, rural areas, or the Monticello Historic district, the minimum and maximum side and rear yards shall be as provided in section 4.20.~~ (Amended 7- 10-85; 7-8-92)
- c. *Buffer adjacent to district other than commercial or industrial district.* No construction activity, including grading or clearing vegetation (collectively, “disturbance”), shall occur within thirty (30) feet of any district other than a commercial or industrial district except in the following circumstances: (i) adequate landscape screening does not currently exist and disturbance is necessary to install screening that meets or exceeds the screening requirements in section 32.7.9; (ii) an arborist or landscape architect certifies that trees in the buffer are dying, diseased or will constitute a fall hazard and must be removed; (iii) the county engineer determines that disturbance is necessary in order to address an existing drainage problem; or (iv) disturbance will result in improved screening through the use of a berm, a retaining wall or similar physical modification or improvement. When disturbance is allowed under subsection (i), (ii), (iii) or (iv), the developer shall submit an illustration showing the existing screening without disturbance and the screening that would be installed after the disturbance, and disturbance shall be allowed only if the screening installed after the disturbance is equal to or exceeds the screening existing prior to disturbance. (Amended 9-9-92)
- d. *Special exception to disturb buffer abutting district other than a commercial or industrial district.* The board of supervisors may authorize a disturbance in the buffer required to be maintained under subsection (c) by special exception. The board shall consider whether disturbance is necessary or would result in an improved site design, provided that: (i) minimum screening requirements are met; and (ii) existing landscaping in excess of minimum requirements is substantially restored. (Added 7-10-85)
- e. *Building separation.* The minimum building separation shall be as provided in section 4.20.

(§ 26.5, Ord. 13-18(1), 4-3-13; § 26.10, Ord. 09-18(1), 1-14-09; §§ 26.10, 26.10.1, 26.10.2, 26.10.3; 12-10-80; 7-10-85, 7-8-92, 9-9-92)

I, Ella W. Jordan, do hereby certify that the foregoing writing is a true, correct copy of an Ordinance duly adopted by the Board of Supervisors of Albemarle County, Virginia, by a vote of _____ to _____, as recorded below, at a regular meeting held on _____.

Clerk, Board of County Supervisors

	<u>Aye</u>	<u>Nay</u>
Mr. Boyd	_____	_____
Ms. Dittmar	_____	_____
Ms. Mallek	_____	_____
Ms. McKeel	_____	_____
Ms. Palmer	_____	_____
Mr. Sheffield	_____	_____