

1 **Ordinance To Amend And Re-Enact The Zoning Ordinance Of The City Of Hampton,**  
2 **Virginia By Amending Section 3-2 Entitled, “Table of Uses Permitted” and Section 3-3**  
3 **Entitled, “Additional Standards On Uses” To Modify Regulations Pertaining to Upper-floor**  
4 **Dwelling Units and Multifamily Dwellings**

5  
6 **Whereas**, the public necessity, convenience, general welfare and good zoning practice so  
7 require;

8  
9 **BE IT ORDAINED** by the Council of the City of Hampton, Virginia that Sections 3-2 and 3-3 of  
10 the Zoning Ordinance of the City of Hampton, Virginia, be amended to read as follows:

11  
12 **CHAPTER 3 – USES PERMITTED**

13  
14 **Sec. 3-2. Table of uses permitted.**

15 **(a) Table of Uses Permitted in Standard Zoning Districts.**

16 *[See attached use table for changes.]*

17 **(b) Table of Uses Permitted in Special Zoning Districts.**

18 *[See attached use table for changes.]*

19 ...

20  
21 **Section 3-3. – Additional standards on uses.**

22 ...

23 (5) Upper-floor dwelling units *in the C-2, BB-3, BB-4, BB-5, DT-1, DT-2, PH-1, PH-2, and PH-3*  
24 *districts shall comply with the following minimum conditions:-*

25 (a) In the C-2 district, upper-floor dwelling units, with an approved use permit, may be  
26 located above permitted *C-2 uses when the following additional standards are met:*  
27 ~~office, retail or commercial uses excluding certain uses listed below:~~

28 ~~(i) Car wash, hand/auto detailing; (ii) Car wash, self-service or automated; (iii)~~  
29 ~~Boarding/rooming houses; (iv) Religious facilities; (v) Commercial~~  
30 ~~communications towers, not to exclude building mounted antennas with an~~  
31 ~~approved use permit; (vi) Detention facilities; (vii) Gas stations; (viii) Group~~  
32 ~~homes; (ix) Halfway houses; (x) Light vehicle repair; (xi) Motorcycle sales; (xii)~~  
33 ~~Motorcycle service; (xiii) Orphanages; (xiv) Skating rink, ice or roller; (xv)~~  
34 ~~Swimming pool, commercial; (xvi) Tire sales; (xvii) Tire repair; (xviii) Turkish~~  
35 ~~baths; (xix) Vehicle storage, including vehicle storage accessory to heavy vehicle~~  
36 ~~repair.~~

37 *(i) Residential uses may not be combined with any other use on the same floor.*

(ii) Residential uses may not be located on ~~the~~ pedestrian level and must have at least one (1) separate exterior entrance.

(iii) No ~~commercial, office, retail, or parking~~ *non-residential* uses shall be located on any floor above a residential use. *Notwithstanding the foregoing, outdoor dining shall be permitted when associated with a ground floor restaurant in the same building, provided it is located on a rooftop and subject to securing an outdoor dining permit as applicable.*

(iv) *Development shall conform with development standards and setbacks for all uses other than townhouses and multiple dwellings within the C-2 district as listed within Sections 6-12 and 6-14, as amended. Commercial building setbacks shall apply with all building code standards being met as necessary for such building separations.*

(v) *Each residential dwelling unit shall have adequate light by providing at least two exterior walls with at least one window in each exterior wall.*

(b) In the *BB-3, BB-4, BB-5, DT-1, and DT-2, PH-1, PH-2, PH-3, FM-2, and FM-3* districts, ~~mixed-use structures with upper-floor dwelling units shall include two (2) or more of the following elements: residential, office, retail, commercial or parking~~ *be permitted by-right* with the following *minimum* standards:

(i) Residential uses may not be combined with any other use on the same floor.

(ii) Residential uses may not be located on ~~the~~ pedestrian level and must have at least one (1) separate exterior entrance.

(iii) No ~~commercial, office, retail, or parking~~ *non-residential* uses shall be located on any floor above a residential use. *Notwithstanding the foregoing, outdoor dining shall be permitted when associated with a ground floor restaurant in the same building, provided it is located on a rooftop and subject to securing an outdoor dining permit as applicable*

(iv) *Each residential dwelling unit shall have adequate light by providing at least two exterior walls with at least one window in each exterior wall.*

...

~~(42) Reserved.~~ *Multifamily dwelling in MD-2, MD-3, MD-4, R-M, C-2, RT-1, DT-1, DT-2, and DT-3 districts are shall comply with the following:*

(a) *In the MD-2, MD-3, MD-4, R-M, C-2, RT-1 districts, the use permit requirement shall not apply to buildings and structures used as multifamily dwellings if they were legally established on February 10, 2021 or to those for which a significant affirmative governmental act, as defined by section 15.2-2307 of the Code of Virginia, as amended, has been obtained and remains in effect as of February 10, 2021, which allows development of the specific project, including but not limited to,*

76 *having obtained an approved site plan for the building or structure. Such buildings*  
77 *and structures shall be grandfathered and considered permitted uses—as opposed*  
78 *to legal nonconforming uses—as long as the multifamily use continues and the*  
79 *buildings or structures remain in their then structural condition. The requirements of*  
80 *this section shall apply, however, to any alterations of such buildings or structures in*  
81 *a manner not approved prior to February 10, 2021, and upon the cessation of the*  
82 *multifamily use for a period longer than two (2) years.*

83  
84 *(b) In the DT-1, DT-2, and DT-3 districts, the following additional standards shall be*  
85 *required. In the event of a mixed-use development proposal involving a multifamily*  
86 *dwelling use, the requirements for multifamily dwellings shall supersede any*  
87 *conflicting standards that apply more generally to the development.*

88  
89 *(i) The standards in this subsection (b) shall not apply to buildings and*  
90 *structures used as multifamily dwellings if they were legally established on*  
91 *February 10, 2021 or to those for which a significant affirmative governmental*  
92 *act, as defined by section 15.2-2307 of the Code of Virginia, as amended,*  
93 *has been obtained and remains in effect as of February 10, 2021, which*  
94 *allows development of the specific project, including but not limited to, having*  
95 *obtained an approved site plan for the building or structure. Such buildings*  
96 *and structures shall be grandfathered and considered permitted uses—as*  
97 *opposed to legal nonconforming uses—as long as the multifamily use*  
98 *continues and the buildings or structures remain in their then structural*  
99 *condition. The requirements of this section shall apply, however, to any*  
100 *alterations of such buildings or structures in a manner not approved prior to*  
101 *February 10, 2021, and upon the cessation of the multifamily use for a period*  
102 *longer than two (2) years.*

103 *(ii) The minimum residential development density shall be thirty (30) units per*  
104 *buildable acre.*

105 *(iii) The primary entrance for all multifamily dwelling buildings abutting any public*  
106 *street shall face a public street. The primary entrance is not permitted from*  
107 *the parking area or alley.*

108 *(iv) Off-street parking shall be prohibited in the front yard.*

109 *(v) There shall be a fifteen (15) foot deep façade zone along the front lot line.*  
110 *Ninety (90) percent of the length of the façade zone shall be occupied by the*  
111 *multifamily dwelling building, except that required drive aisle(s) with*  
112 *associated sidewalks to access required off-street parking areas shall not be*  
113 *counted toward this percentage.*

114 *(vi) A minimum of twenty (20) percent of the first floor street-adjacent building*  
115 *façades shall be comprised of glass windows and/or glass doors.*

116 *(vii) There shall be at least one first floor window on all façades of all buildings*  
117 *containing residential dwelling units.*

118 *(viii) All buildings containing residential dwelling units shall be a minimum of*  
119 *two (2) stories.*

120 *(ix) The minimum ceiling height of the first floor of a building containing*  
121 *residential dwelling units shall be ten (10) feet.*

122 *(x) For any building with residential dwelling area on the ground floor and which*  
123 *faces a public right-of-way, the first finished floor of the dwellings shall be a*  
124 *minimum of thirty six (36) inches above the grade of the public sidewalk at*  
125 *the primary entrance to the building.*

(xi) Sixty (60) percent of all residential dwelling units part of the development shall have access to an open space amenity either in the form of individual space for the unit's use, or shared common space which is sized in such a way to accommodate all of the required units as further described below. In the event that the requirement causes a fraction of a unit, the requirement shall be rounded up to the nearest whole number.

(aa) Individual open space amenities shall have a minimum dimension of four (4) feet by six (6) feet.

(bb) Shared common space may only be used as an open space amenity when accommodating more than four (4) units. Such shared common space must be sized to provide at least sixteen (16) square feet per each unit. The shared common space shall have a minimum dimension of eight (8) by eight (8) feet.

(xii) When the development has fifty (50) or more residential dwelling units, at least one (1) of the following active recreation amenities shall be provided on the same lot: swimming pool, clubhouse or similar common room, lighted tennis court, lighted basketball court, shuffleboard area, dock, pier, boat ramp, dog park, or other similar active recreation amenity as approved by the Zoning Administrator. The amenity required by this subsection shall not be counted towards the requirement of Section 3-3(42)(b)(xi).

(c) Multifamily dwellings which do not meet the by-right optional incentive standards set forth under subsection (b) are subject to obtaining a use permit. When considering a use permit, the city will follow the criteria for use permit review set forth in chapter 14, as amended, in order to determine suitability of the development for the proposed location.

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