

ARTICLE 9

CENTRAL BUSINESS DISTRICT - B-1

STATEMENT OF INTENT

This district is intended for the conduct of business to which the public requires direct and frequent access, but which is not characterized either by constant heavy trucking other than stocking and delivery of light retail goods, or by any other nuisance factors other than occasioned by incidental light and noise of congregation of people and passenger vehicles. This includes such uses as retail stores, banks, theaters, business offices, newspaper offices, and restaurants.

SECTION 9-1. USE REGULATIONS.

Structures and land to be used shall be for the following uses, except that the ground floor, excluding a cellar, as defined shall not be converted from a single-family detached dwelling or nonresidential use to multifamily use or conversion of ground floor nonresidential use to residential use unless approved per Section 9-2-16 of this Ordinance. (5/14/96, Case TA-96-01, Ord. No. 012-96; 6/8/04, Case TA-04-03, Ord. No. 23-2004; 9/14/04, Case TA-04-05, Ord. No. 39-2004)

- 9-1-1 Single family detached dwellings.
- 9-1-2 Two family detached dwellings.
- 9-1-3 Townhouses, in accordance with Section 9-9.
- 9-1-4 Multifamily dwellings with units having two (2) or fewer bedrooms not exceeding eighty five (85) dwelling units in any one structure, nor on any one lot. A copy of the proposed floor plans and a Covenants and Restrictions document shall be provided with the application for any multifamily project. The document shall include provisions addressing: a) dwelling unit occupancy limits (including whether there is a restriction on the minimum age of occupants and/or the number of children permitted); b) trash storage/collection; and, c) maintenance of common areas (including a budget for said maintenance). (8/12/08, Case TA-08-05, Ord. No. 2008-34)
- 9-1-5 Home occupations in accord with Section 18-19 of this Ordinance. (10/11/83, Case 83-06, Ord. No. 034-83)
- 9-1-6 Accessory uses, as defined.

WINCHESTER ZONING ORDINANCE

- 9-1-7 Banks and financial institutions, not including short-term loan establishment, as defined in Article 1. (4/3/10, Case TA-10-21, Ord. No. 2010-06)
- 9-1-8 Churches.
- 9-1-9 Contractors' establishments, offices and display rooms. (10/17/95, Case TA-95-04, Ord. No. 053-95)
- 9-1-10 Convenience service establishments such as, but not limited to, barber shops, beauty parlors, tailors, automatic self-service laundries.
- 9-1-11 Day nursery or day care centers.
- 9-1-12 Fire and rescue squad stations.
- 9-1-13 Funeral homes, excluding crematories. (6/8/10, Case TA-10-111, Ord. No. 2010-19)
- 9-1-14 Government offices.
- 9-1-15 Bed & Breakfast Inns, Bed & Breakfast Homestays, Hotels and motels. (12/13/94, Case TA-94-09, Ord. No. 028-94; 1/9/01, Case TA-00-09, Ord. No. 002-2001)
- 9-1-16 Institutions of higher education.
- 9-1-17 Laundry or dry cleaning establishment.
- 9-1-18 Library.
- 9-1-19 Museums and public arts galleries.
- 9-1-20 Newspaper office building, including printing and publishing facilities incidental to such use.
- 9-1-21 Offices, business and professional.
- 9-1-22 Parking garages and parking lots.
- 9-1-23 Pet shops, but excluding kennels on the premises.
- 9-1-24 Philanthropic and charitable institutions.

CENTRAL BUSINESS DISTRICT - B-1

- 9-1-25 Post office.
- 9-1-26 Printing shops.
- 9-1-27 Processing or manufacturing establishments that are not objectionable because of smoke, odor, dust, or noise, but only when such processing or manufacturing is incidental to a retail business conducted on the premises and where not more than ten (10) persons are employed on the premises in the processing or manufacturing activities.
- 9-1-28 Public utilities, such as poles, lines, distribution transformers, pipes, meters, water and sewer lines, booster or relay stations, transformer substations, transmission lines and towers.
- 9-1-29 Radio or television broadcasting stations, studios, or offices.
- 9-1-30 Repair services or businesses, including repair of bicycles, guns, radios, television sets, electrical appliances, locks, refrigerators and other home appliances, shoes, toys, typewriters, watches and clocks, provided that no equipment over five (5) horsepower shall be used.
- 9-1-31 Restaurants.
- 9-1-32 Retail stores.
- 9-1-33 Schools, private and public.
- 9-1-34 Outdoor storage of materials and supplies and display of merchandise for sale or rent incidental to the conduct of any permitted uses on the lot as provided for in Section 18-20 of this Ordinance. (10/17/95, Case TA-95-04, Ord. No. 053-95)
- 9-1-35 Theaters, motion picture theaters, and assembly halls, but excluding drive-in theaters.
- 9-1-36 Wholesale businesses where loading areas are completely screened from street view.
- 9-1-37 Off-Street Parking Areas as defined in Section 18-6 of this Ordinance for permitted and conditional uses in the B-1 District and access drives for permitted and conditional uses in the B-2, CM-1, M-1, M-2, MC and HE-1 Districts in accordance with Section 18-6 of this Ordinance. (8/12/97, Case TA-97-06, Ord. No. 019-97; 3/8/05, Case TA-04-08, Ord. No. 007-2005)

WINCHESTER ZONING ORDINANCE

- 9-1-38 Signs in accordance with Section 18-8 of this Ordinance.
- 9-1-39 Commercial Records Center, as defined, provided that, when situated within the HW District, such uses shall be contained entirely within structures existing at the time of the adoption of this Ordinance. (4/12/94, Case TA-94-03, Ord. No 011-94; 10/17/95, Case TA-95-05, Ord. No. 052-95)
- 9-1-40 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)
- 9-1-41 Physical fitness or martial arts establishments. (10/14/97, Case TA-97-09, Ord. No. 027-97)
- 9-1-42 Assembling establishments not involved in any on site manufacturing that are not objectionable because of smoke, odor, dust, or noise with not more than ten (10) persons employed. (1/14/03, Case TA-02-10, Ord. No. 003-2003)
- 9-1-43 Bakery (1/14/03, Case TA-02-10, Ord. No. 003-2003)
- 9-1-44 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 9-2. USES REQUIRING A CONDITIONAL USE PERMIT.

- 9-2-1 Youth activity centers and similar facilities for adults. (8/16/02, Case TA-01-07, Ord. No. 036-2001)
- 9-2-2 Special care hospitals.
- 9-2-3 Halfway houses. (2/11/97, Case TA-96-09, Ord. No. 005-97)
- 9-2-4 Repealed. (2/11/97, Case TA-96-09, Ord. No. 005-97)
- 9-2-5 Adult bookstores, adult motion picture theaters, and adult mini-motion pictures theaters, provided that no two such uses shall be permitted within one thousand (1,000) feet of each other; and that no such uses shall be permitted within five hundred (500) feet of any residentially zoned district or playground. No such uses shall be open for business later than 11:00 p.m. or earlier than 9:00 a.m. (10/12/82, Case 82-10, Ord. No. 020-82)

CENTRAL BUSINESS DISTRICT - B-1

- 9-2-6 Automobile and truck sales and service establishments and rental agencies, provided that vehicle lifts and pits and all service and repair of motor vehicles shall be within a building enclosed on all sides.
- 9-2-7 Bowling alleys.
- 9-2-8 Nightclubs and dance halls.
- 9-2-9 Nursing and rest homes, and assisted living facilities. (9/14/10, Case TA-10-333, Ord. No. 2010-38)
- 9-2-10 Pool and billiard rooms, and video arcades.
- 9-2-11 Private clubs and lodges.
- 9-2-12 Service stations, provided that all repair of vehicles take place in a fully enclosed building.
- 9-2-13 Tourist homes.
- 9-2-14 Mini-warehouses/mini-storage, as defined, provided that, when situated within the HW District, such uses shall be contained entirely within structures existing at the time of adoption of this Ordinance, subject to the following provisions. (9/10/91, Case TA-91-02, Ord. No. 037-91; 10-17-95, Case TA-95-05, Ord. No. 052-95)
- a. Repealed. (10/17/95, Case TA-95-04, Ord. No. 053-95)
 - b. No business activities other than rental of storage units and office for management of the facility shall be conducted on the premises or within the building. Specifically, no activities such as miscellaneous or garage sales shall be conducted on the premises. The servicing or repair of motor vehicles, boats, trailers, lawn mowers, or other similar equipment shall not be conducted on the premises. The operation of a mini-warehouse/mini-storage shall in no way be deemed to include a transfer and storage business where the use of vehicles is part of such business.
 - c. When a mini-warehouse/mini-storage use is proposed adjacent to or within 100 feet of a lot in a residential district without an intervening street screening per Section 19-5-6.4d of this Ordinance shall be erected between the mini-warehouse/mini-storage and the residential lot. However, the screening shall not be required to extend into the front

WINCHESTER ZONING ORDINANCE

yard required on the lot on which it is located. (10/17/95, Case TA-95-05, Ord. No. 052-95)

- d. Access to individual storage units shall be from an internal entrance except for already existing entrances. No new exterior entrances which directly access an individual storage unit shall be installed.
- e. The maximum total storage area in a mini-warehouse/ mini-storage building shall be seven thousand, five hundred (7,500) square feet.

9-2-15 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)

9-2-16 Conversion of ground floor single-family detached dwelling or nonresidential use to multifamily use or conversion of ground floor nonresidential use to residential use otherwise prohibited per Section 9-1 of this Ordinance subject to the following: (6/8/04, Case TA-04-03, Ord. No. 24-2004)

- a. City Council finds multifamily use to be as suitable as or preferable to other permitted uses on the ground floor, and
- b. No units are situated facing a major commercial street as determined by the Planning Director.

9-2-17 Computer and computer peripheral assembly, provided that off-street loading is provided per Section 18-6-7 notwithstanding the exception under Section 18-6-6 of this Ordinance. (01/11/00, Case TA-99-08, Ord. No. 001-2000)

9-2-18 Repealed. (2/12/08, Case TA-07-09, Ord. No. 2008-11)

9-2-19 Extended stay lodging. (8/12/03, Case TA-03-01, Ord. No. 031-2003)

9-2-20 Multifamily dwellings, as hereinafter defined (2/8/11, Case TA-10-613, Ord. No. 2010-72):

- a. Multifamily dwellings including units having more than two bedrooms, not exceeding eighty five (85) dwelling units in any one structure, nor on any one lot. A copy of the Covenants and Restrictions document shall be provided with the application for any multifamily project. The document shall include provisions addressing: a) dwelling unit occupancy limits (including whether there is a restriction on the minimum age of occupants and/or the number of children permitted); b) trash storage/collection; and, c) maintenance of

CENTRAL BUSINESS DISTRICT - B-1

common areas (including a budget for said maintenance). No more than twenty percent (20%) of the total units shall contain more than two bedrooms, except that no property shall be precluded from having one (1) unit with more than two bedrooms. Strict compliance with all applicable codes shall be required. Violation of any of the following may result in revocation of a Conditional Use Permit: (9/14/04, Case TA-04-05, Ord. No. 039-2004; 8/12/08, Case TA-08-05, Ord. No. 2008-34)

- 1) Conviction of a violation of §18-4, pertaining to occupancy of dwelling units.
- 2) Any violation of §§ 6-87 -- 6-131, of the City Code, pertaining to the Identification and Inspection of Rental Dwelling Units.
- 3) Designation of the property as a nuisance, in accordance with §§ 16-19 -- 16-22, of the City Code.
- 4) Excessive violations of the Uniform Statewide Building Code, Virginia Maintenance Code, and/or the Zoning Ordinance.

or;

- b. Conversion, reconstruction, or rehabilitation of an existing structure in the Primary and Secondary Downtown Assessment Districts as defined in Section 25-1, Winchester City Code, as amended, to mixed-use, multifamily dwellings which do not otherwise conform to the minimum floor area regulations identified in Section 9-3-1 of this article; provided that the occupancy requirements of Sections 18-4-2, 18-4-3, 18-4-4, and 18-4-5 are adhered to. (2/8/11, Case TA-10-613, Ord. No. 2010-72)

- 9-2-21 Short-term loan establishment, provided that no such use is located within 500 feet of any other short-term loan establishment or residentially-zoned property. (4/3/10, Case TA-10-21, Ord. No. 2010-06)
- 9-2-22 Hookah establishment, as defined, provided that no such use shall be located within 500 feet of a similar use, public/private school, playground, or public park. (2/8/11, Case TA-10-639, Ord. No. 2010-73)
- 9-2-23 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)

WINCHESTER ZONING ORDINANCE

9-2-24 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)

SECTION 9-3. FLOOR AREA REGULATIONS.

9-3-1 The absolute and average minimum floor area per dwelling unit in each building used for this purpose shall be as follows:

Unit Type	Minimum Sq. Ft.			
	Absolute		Average	
	Age Restricted	General Population	Age Restricted	General Population
Efficiency & 1 Bedroom	400	575	525	700
2 or more Bedrooms	525	725	650	900

SECTION 9-4. LOT DENSITY REGULATIONS.

9-4-1 The density for uses in this district shall be as follows:
(9/14/04, Case TA-04-05, Ord. No. 039-2004)

Repealed. (9/14/04, Case TA-04-05, Ord. No. 039-2004; 8/12/08, Case TA-08-05, Ord. No. 2008-34)

Dwelling units --- except as adjusted per Subsection 9-4-1.1a through f of this Ordinance, if applicable: one (1) unit for each one thousand (1,000) square feet of Lot Area. (9/14/04, Case TA-04-05, Ord. No. 039-2004; 8-12-08, Case TA-08-05, Ord. No. 2008-34)

9-4-1.1 DENSITY ADJUSTMENT FOR MULTIFAMILY PROJECTS. In computing the density adjustments in Sections 9-4-1.1a through f below, the Base Density shall be computed before applying the adjustments. Simple rounding shall be used in eliminating fractions. (9/14/04, Case TA-04-05, Ord. No. 039-2004)

An Adjusted Base Density shall be computed by multiplying the Base Density by the Bonus Factor applicable to each bonus provision below. The product represents the number of dwelling units (Density Adjustment) that may be added to the Base Density when determining the maximum number of units permitted. (9/14/04, Case TA-04-05, Ord. No. 039-2004)

CENTRAL BUSINESS DISTRICT - B-1

a. DENSITY ADJUSTMENT BASED UPON ECONOMIC IMPACT.

The B-1 district benefits from a vibrant and economically stable mix of retail, office, and residential uses. In order to achieve this, the following Density Adjustment shall be applied: (9/14/04, Case TA-04-05, Ord. No. 039-2004)

% of total floor area in nonresidential use	Bonus Factor
25%	.25
50%	.50
75%	.75

b. DENSITY ADJUSTMENT BASED UPON HISTORIC PRESERVATION IMPACT.

Only properties situated in the Historic Winchester (HW) overlay District or a National Historic District shall be subject to this Section. Where the development consists of structures (excluding accessory structures) at least fifty (50) years old which are already, or as a part of the development plan are proposed to be, preserved in accordance with historic preservation guidelines established by the U.S. Department of the Interior, ("historically preserved") the following Density Adjustments shall be applied:

(9/14/04, Case TA-04-05, Ord. No. 039-2004; 8/12/08, Case TA-08-05, Ord. No. 2008-34)

<u>% of existing floor area preserved</u>	<u>Bonus Factor</u>
60%	.30
70%	.35
80%	.40
90%	.45
100%	.50

c. DENSITY ADJUSTMENT BASED UPON LEED® FOR HOMES CERTIFICATION.

Where dwelling units are certified by the standards outlined in the United States Green Building Council LEED® for Homes program; and, with each dwelling unit having no more than two (2) bedrooms, the following Density Adjustments shall be applied: (8/12/08, Case TA-08-05, Ord. No. 2008-34; 3/11/09, Case TA-08-12, Ord. No. 2009-10)

<u>Level of Certification</u>	<u>Bonus Factor</u>
Certified	.20
Silver	.30
Gold	.40
Platinum	.50

WINCHESTER ZONING ORDINANCE

- d. DENSITY ADJUSTMENT BASED UPON RESIDENTIAL AMENITIES. Where at least 5% of the resulting residential floor area is committed to common amenities, as determined by the Planning Director, a Bonus Factor of .20 shall be applied. Tenant storage space shall not constitute greater than 40% of the required 5% necessary to take advantage of the amenity bonus. (8/12/08, Case TA-08-05, Ord. No. 2008-34)
- e. DENSITY ADJUSTMENT BASED UPON ACCESSIBILITY. Where at least 70% of the upper story dwelling units are accessible by passenger elevator, a Bonus Factor of .20 shall be applied. (8/12/08, Case TA-08-05, Ord. No. 2008-34)
- f. DENSITY ADJUSTMENT BASED UPON PROPERTY LOCATION. Where dwelling units are located within the special taxation as per Section 25-1 of Winchester City Code, the following Density Adjustment shall be applied:

Taxation District	Bonus Factor
Secondary Downtown District	.10
Primary Downtown District	.20

9-4-2 Other Residential and lodging Accommodations listed under Sections 9-1 and 9-2 of this Ordinance one (1) bed per three hundred seventy five (375) square feet of lot area. (5/14/96, Case TA-96-01, Ord. No. 012-96; 1-9-01, Case TA-00-09, Ord. No. 002-2001)

9-4-3 Other uses - None. (5/14/96, Case TA-96-01, Ord. No. 012-96)

SECTION 9-5. LOT WIDTH REGULATIONS.

9-5-1 None.

SECTION 9-6. SETBACK REGULATIONS.

9-6-1 None, except where a permitted use is located partly in a residential district, when the setback regulations for said residential district shall prevail.

9-6-2 For canopies covering gasoline or other petroleum pumps or dispensers, there shall be a ten (10) foot setback required from any street or highway, or from any street or highway right-of way. No setback shall be required for canopies to be installed above existing islands or replacement islands provided the replacement

CENTRAL BUSINESS DISTRICT - B-1

islands come no closer to the street right-of-way than the closest existing island to the right-of-way and provided dispensing of petroleum does not cease for more than six consecutive months anytime subsequent to adoption of this amendment. (1/9/90, Case TA-89-06, Ord. No. 90-01)

SECTION 9-7. YARD REGULATIONS.

- 9-7-1 Side. None, except when a use is abutting a residential district, and then there shall be a minimum side yard of five (5) feet.
- 9-7-2 Rear. None, except that when a use is abutting a residential district, there shall be a minimum rear yard of twenty (20) feet.

SECTION 9-8. HEIGHT REGULATIONS.

- 9-8-1 Buildings may be erected up to seventy-five (75) feet from grade, except that:
- 9-8-2 Church spires, belfries, cupolas, chimneys, flues, flag poles, television antennas, radio aerials, and equipment penthouses are exempt.

SECTION 9-9. SPECIAL PROVISIONS FOR TOWNHOUSES IN THE B-1 DISTRICT.

- 9-9-1 Attached dwellings shall be separated by a noncombustible party wall to the roof line, with a fire resistance of not less than two (2) hour's duration.
- 9-9-2 Each townhouse shall front on a dedicated public street.
- 9-9-3 MANAGEMENT OF COMMON OPEN SPACE. All common open spaces shall be preserved for their intended purpose as expressed in the Final Site Plan.
- 9-9-3.1 There shall be an establishment of a nonprofit association, corporation, trust, or foundation of all individuals or corporations owning residential property within the townhouse development to insure the maintenance of common space.
- 9-9-3.2 When the development is to administer common open space through a nonprofit association, corporation, trust, or foundation, said organization shall conform to the following requirements:
- 9-9-3.3 The developer must establish the organization prior to the sale of any lots.

WINCHESTER ZONING ORDINANCE

- 9-9-3.4 Membership in the organization shall be mandatory for all residential property owners, present or future, within the townhouse development and said organization shall not discriminate in its members or shareholders.
- 9-9-3.5 The organization shall manage all common open space 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 townhouse development.
- 9-9-3.6 Failure to maintain common open space.
- a. In the event that the organization established to own and maintain common open space, or any successor organization, shall at any time after establishment of the townhouse development fail to maintain the common open space 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 townhouse development setting forth the manner in which the organization has failed to maintain the common open space 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 townhouse development and to prevent the common open space from becoming a public nuisance, may enter upon said common open space 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 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, call a public hearing upon notice to such organization, or to the residents of the townhouse development, to be held by the City Council, at which hearing such organization or the residents of the townhouse 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 in a reasonable condition, the City Council shall cease to maintain said common open space at the end of said

CENTRAL BUSINESS DISTRICT - B-1

year. If the City Council shall determine that said organization is not ready or able to maintain the common open space 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.

- b. The cost of such maintenance by the City shall be assessed ratably against the properties within the townhouse development that have a right of enjoyment of the common open space and shall become a tax lien on said properties. The City at the time of entering upon said common open space 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 within the townhouse development.
- c. Subsection 9-9-3.6a and 9-9-3.6b shall be included in the deed of dedication.

WINCHESTER ZONING ORDINANCE

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