

**WINCHESTER COMMON COUNCIL SPECIAL MEETING
TUESDAY, OCTOBER 22, 2013
AGENDA
6:00 p.m.**

1.0 CALL TO ORDER AND ROLL CALL

2.0 Red Ribbon Week Proclamation (page 3)

3.0 PUBLIC HEARING

3.1 O-2013-28: Second Reading – AN ORDINANCE TO AMEND AND RE-ENACT ARTICLES 1, 8, 9, 10, AND 13 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO RESTAURANTS AND ENTERTAINMENT ESTABLISHMENTS. TA-13-146 (**ROLL-CALL VOTE**)(pages 4-13)

3.2 O-2013-29: Second Reading - AN ORDINANCE TO REZONE APPROXIMATELY 41.5 ACRES OF LAND CONTAINING APPROXIMATELY 86 PARCELS, EITHER IN FULL OR IN PART, TO BE INCLUDED IN THE CORRIDOR ENHANCEMENT (CE) DISTRICT; SUBJECT PARCELS ARE ADJACENT TO, OR WITHIN 400 FEET OF, THE BERRYVILLE AVENUE RIGHT-OF-WAY RZ-13-380 (*Establishes a Corridor Enhancement District along Berryville Avenue*)(**ROLL-CALL VOTE**)(pages 14-21)

3.3 O-2013-30: Second Reading – AN ORDINANCE TO REZONE 1.295 ACRES OF LAND AT 1720 VALLEY AVENUE (*Map Number 231-04-K-8A*) FROM HIGHWAY COMMERCIAL (B-2) DISTRICT WITH CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY TO B-2 DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) AND CE DISTRICT OVERLAY. RZ-13-292 (*Redevelopment plan for the former Coca-Cola plant*) (**ROLL-CALL VOTE**)(pages 22-32)

3.4 O-2013-14: Second Reading – AN ORDINANCE TO AMEND AND REENACT ARTICLES 18, 21, AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO SIGNS, VIOLATION AND PENALTY, FEES, AND CORRIDOR ENHANCEMENT TA-13-138 (*Revision to temporary sign provisions and permit requirements*) (**ROLL-CALL VOTE**)(pages 33-50)

4.0 EXECUTIVE SESSION

4.1 MOTION TO CONVENE IN EXECUTIVE SESSION PURSUANT TO §2.2-3711(A)(7) OF THE CODE OF VIRGINIA FOR THE PURPOSE OF RECEIVING LEGAL ADVICE AND STATUS UPDATE FROM THE CITY ATTORNEY AND LEGAL CONSULTATION REGARDING THE SUBJECT

OF SPECIFIC LEGAL MATTERS REQUIRING THE PROVISION OF
LEGAL ADVICE BY THE CITY ATTORNEY AND MATTERS OF
ACTUAL OR PROBABLE LITIGATION

5.0 ADJOURNMENT

PROCLAMATION

Red Ribbon Week

WHEREAS, alcohol and drug abuse in this Nation have reached epidemic stages; and

WHEREAS, there is hope in winning the War on Drugs, and the hope lies in the hard work and determination of our communities to create a drug free environment; and

WHEREAS, local leaders, in government and in the community, know that the support of the people in the neighborhoods is the most effective tool they can have in their efforts to reduce use of alcohol, tobacco, and other drugs; and

WHEREAS, success will not occur overnight, our patience and continued commitment to drug education and prevention are imperative; and

WHEREAS, the red ribbon was chosen as a symbol commemorating the work of Enrique "Kiki" Camarena, a Drug Enforcement Administration agent, who was murdered in the line of duty and has come to represent the belief that one person CAN make a difference; and

WHEREAS, the Red Ribbon Campaign was established by Congress in 1988 to promote this belief and encourage a drug-free lifestyle and involvement in drug prevention efforts; and

WHEREAS, the Shenandoah Valley Young Marines work tirelessly in the community to promote youth drug awareness in the schools and at community events.

NOW, THEREFORE, BE IT RESOLVED, that I, Elizabeth A. Minor, Mayor of the City of Winchester, Virginia, do hereby proclaim October 23 - 31, 2013, as Red Ribbon Week in this City, and encourage all citizens, businesses, public and private agencies, media, religious and educational institutions to wear and display red ribbons and participate in drug-free activities throughout that week, joining the rest of the nation in promoting the Red Ribbon Celebration and drug-free communities.

Witness my hand,

Mayor Elizabeth A. Minor

0-2013-28

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 8/27/13 (work session), **CUT OFF DATE:** 8/21/13
9/10/13 (1st Reading) 10/8/13 (2nd Reading/Public Hearing)

RESOLUTION **ORDINANCE** X **PUBLIC HEARING** X

ITEM TITLE:

TA-13-146 AN ORDINANCE TO AMEND AND RE-ENACT ARTICLES 1, 8, 9, 10, AND 13 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO RESTAURANTS AND ENTERTAINMENT ESTABLISHMENTS

STAFF RECOMMENDATION:

Approval.

PUBLIC NOTICE AND HEARING:

Public hearing for 10/8/13 Council mtg .

ADVISORY BOARD RECOMMENDATION:

Planning Commission forwarded without recommendation.

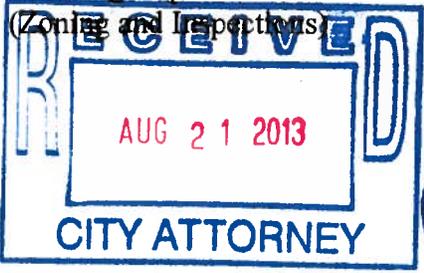
FUNDING DATA: N/A

INSURANCE: N/A

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. Planning		_____	8/21/13
2. City Attorney		_____	8/21/2013
3. City Manager		_____	8-22-13
4. Clerk of Council	_____	_____	_____

Initiating Department Director's Signature:  8/21/13



APPROVED AS TO FORM:

8/21/2013
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council

From: Aaron Grisdale, Director of Zoning and Inspections

Date: August 21, 2013

Re: Text Amendment (TA-13-146) – Entertainment Establishments

THE ISSUE:

Publicly sponsored text amendment to clarify the Zoning Ordinance and make a distinction between restaurants and entertainment establishments.

RELATIONSHIP TO STRATEGIC PLAN:

Goal #3 Continue Revitalization of Historic Old Town, Goal #4 Create a More Livable City for All, Management in Progress (2013-2014) – Night Club Ordinance

BACKGROUND:

As noted in the City Strategic Plan, this ordinance is a result of the Downtown Strategic Plan adopted by Council which called for revisiting Nightclub regulations and as part of the Strategic Plan, which has called for creation of a “Vibrant Downtown” and “Growing Economy.” This text amendment serves as a response to City Council’s desire to modify the existing regulations, by eliminating the definitions of Dance Hall and Nightclub and the creation of a new use Entertainment Establishment.

The proposed ordinance will create a distinction between a restaurant that is continuously operated as a restaurant and allowing for background music or entertainment that is clearly subordinate to the restaurant use. However, for uses where a business or restaurant evolves from a restaurant use to an entertainment use, then the Entertainment Establishment classification will apply.

This proposal will not affect the current enforcement powers currently available to each of the various City and State departments and agencies that have oversight of their laws and ordinances. For instance, noise control is already codified in Chapter 17 of City Code, and the Winchester Police will continue to have their enforcement authority of their provision of the code. (Full staff report attached.)

BUDGET IMPACT:

No funding is required.

OPTIONS:

- Approve with conditions recommended by the Planning Commission
- Approve with revised conditions
- Deny the application

RECOMMENDATIONS:

Planning Commission and recommend approval with conditions as noted within the staff report on a 4-2 vote.

City Council Work Session
August 27, 2013

TA-13-146 AN ORDINANCE TO AMEND AND RE-ENACT ARTICLES 1, 8, 9, 10, AND 13 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO RESTAURANTS AND ENTERTAINMENT ESTABLISHMENTS

REQUEST DESCRIPTION

This publicly sponsored text amendment is to clarify the Zoning Ordinance and make a distinction between restaurants and entertainment establishments.

STAFF COMMENTS

Currently, the Zoning Ordinance allows for restaurants that evolve into establishments where some form of entertainment, live or otherwise, takes place after 10:00 p.m. by allowing for a conditional use permit within certain zoning districts in the form of *Nightclubs*.

City Council, as part of their Downtown Strategic Plan, has called for revisiting the *Nightclub* regulations and as part of the Strategic Plan has called for creation of a "Vibrant Downtown" and "Growing Economy." This text amendment serves as a response to City Council's desire to modify the existing regulations, by eliminating the definitions of *Dance Hall* and *Nightclub* and the creation of a new use *Entertainment Establishment*.

These proposed changes will create a distinction between a restaurant that is continuously used as a restaurant, and allowing for background music or entertainment that is clearly subordinate to the restaurant use. However, for uses where a business or restaurant evolves at some point of their operations away from food service to an entertainment use, then the *Entertainment Establishment* classification will apply.

In the several commercial districts where restaurants and nightclubs are currently permitted (B-1, B-2, CM-1, PC), *Entertainment Establishments* will be permitted by-right as long as the building containing the use and its parking facilities are located at least 200-feet from a residentially zoned parcel. If the business or parking lot are located within the 200-foot buffer, then the establishment will be required to seek a conditional use permit through the City Council with a recommendation from the Planning Commission.

The proposed text amendment also establishes several minimum standards that all *Entertainment Establishments* must adhere to, regardless if the business is permitted by-right or with a conditional use permit.

This proposal will not change the requirement for a business to comply with other existing local and state departments and agencies, such as alcohol compliance issues with Virginia Alcohol Beverage Control (ABC), collection and payment of taxes with the Commissioner of Revenue and Treasurer's offices, and criminal issues with the Winchester Police Department. Each department and agency still maintains their existing enforcement mechanisms should the establishment violate their requirements and laws.

RECOMMENDATION

During their August 20, 2013 meeting, the Planning Commission forwarded the amendment without recommendation and adoption of this text amendment.

**RESOLUTION ADOPTING AN ORDINANCE TO AMEND AND RE-ENACT ARTICLES 1, 8, 9, 10, AND 13 OF
THE WINCHESTER ZONING ORDINANCE PERTAINING TO RESTAURANTS AND ENTERTAINMENT
ESTABLISHMENTS**

TA-13-146

WHEREAS, the Code of Virginia provides that one of the purposes of Zoning Ordinances is to facilitate the creation of a convenient, attractive and harmonious community; and,

WHEREAS, in the Winchester Strategic Plan, a vibrant downtown and growing economy were called out as part of the long term vision for the City of Winchester; and,

WHEREAS; the Zoning Ordinance currently provides for restaurants, nightclubs, and dance halls; and,

WHEREAS, the proposed Zoning Ordinance amendment will modify the use classifications of restaurant and create a new classification of "Entertainment Establishment"; and,

NOW, THEREFORE, BE IT RESOLVED that the Winchester Common Council hereby adopts the following text amendment as it represents good planning practices by providing an opportunity for a vibrant downtown as well as allowing for reasonable review of entertainment uses in close proximity to residential zones:

AN ORDINANCE TO AMEND AND RE-ENACT ARTICLES 1, 8, 9, 10, AND 13 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO RESTAURANTS AND ENTERTAINMENT ESTABLISHMENTS

TA-13-146

Draft 4 –July 16, 2013

*Ed. Note: The following text represents an excerpt of Article 1 of the Zoning Ordinance that is subject to change. Words with ~~strikethrough~~ are proposed for repeal. Words that are **boldfaced and underlined** are proposed for enactment. Existing ordinance language that is not included here is not implied to be repealed simply due to the fact that it is omitted from this excerpted text.*

ARTICLE 1

DEFINITIONS

SECTION 1-2. DEFINITIONS.

- ~~1-2-28.1~~ DANCE HALL: A public establishment that, on a regular basis and for an admission fee, provides music and space for dancing. (9/12/89, Case TA 89-02, Ord. No. 023-89) **Repealed.**
- ~~1-2-68.1~~ NIGHT CLUB: An establishment that provides live amplified music, Karaoke, DJs, and/or dancing between the hours of 10 p.m. and 6 a.m. (11/13/01, Case TA 01-06, Ord. No. 035-2001) **Repealed.**
- 1-2-79 RESTAURANT: Any building in which, for compensation, food or beverages are dispensed for consumption on or off the premises. **Any place of business wherein foods or beverages are provided for consumption as the primary use. The term restaurant includes, without limitation; lunchrooms, cafeterias, coffee shops, cafes, taverns, delicatessens, dinner theaters, pubs, soda fountains, and dining accommodations of public or private clubs. This definition excludes: bakeries; bed-and-breakfast facilities; grocery and convenience retail stores; catering businesses (where food is prepared for consumption at another site); snack bars and refreshment stands at public recreation facilities; concession stands at athletic activities, or any facility exempt from state licensure requirements pursuant to Code of Virginia § 35.1-25. Entertainment and music for restaurant patrons for which no cover charge is required and is clearly incidental and accessory to the restaurant's primary function as defined herein is permitted.**
- 1-2-79.1 ESTABLISHMENT, ENTERTAINMENT: A venue where entertainment, during any one hour or more, becomes the principal use during that time for the business' operations, or such entertainment occurs after 11:00 p.m., with or without dancing, and typically involving a cover or other charge for admission and event advertising. These venues shall not include theaters, bowling alleys, stadiums, arenas, or other separately defined uses.**

ARTICLE 8

HIGHWAY COMMERCIAL DISTRICT - B-2

SECTION 8-1. USE REGULATIONS.

8-1-52 Entertainment Establishments, located at least 200 feet from a residentially zoned property, as measured from the structure containing the establishment or the off-street parking area to the residential zone property line.

SECTION 8-2. USES REQUIRING A CONDITIONAL USE PERMIT

8-2-4 ~~Nightclubs and dance halls.~~ Entertainment Establishments, located less than 200 feet from a residentially zoned property, as measured from the structure containing the establishment or the off-street parking area to the residential zone property line, and such establishments where the entertainment will be conducted outdoors.

ARTICLE 9

CENTRAL BUSINESS DISTRICT - B-1

SECTION 9-1. USE REGULATIONS.

9-1-45 Entertainment Establishments, located at least 200 feet from a residentially zoned property, as measured from the structure containing the establishment or the off-street parking area to the residential zone property line.

SECTION 9-2. USES REQUIRING A CONDITIONAL USE PERMIT

9-2-8 ~~Nightclubs and dance halls.~~ Entertainment Establishments, located less than 200 feet from a residentially zoned property, as measured from the structure containing the establishment or the off-street parking area to the residential zone property line, and such establishments where the entertainment will be conducted outdoors.

ARTICLE 10

COMMERCIAL INDUSTRIAL DISTRICT - CM-1

SECTION 10-1. USE REGULATIONS.

10-1-43 Entertainment Establishments, located at least 200 feet from a residentially zoned property, as measured from the structure containing the establishment or the off-street parking area to the residential zone property line.

SECTION 10-2. USES REQUIRING A CONDITIONAL USE PERMIT.

10-2-3 ~~Nightclubs and dance halls.~~ Entertainment Establishments, located less than 200 feet from a residentially zoned property, as measured from the structure containing the establishment or the off-street parking area to the residential zone property line, and such establishments where the entertainment will be conducted outdoors.

ARTICLE 13

PLANNED DEVELOPMENT

SECTION 13-2. PLANNED COMMERCIAL DISTRICT – PC

13-2-3.16 Entertainment Establishments, located at least 200 feet from a residentially zoned property, as measured from the structure containing the establishment or the off-street parking area to the residential zone property line.

SECTION 13-2-4 USES PERMITTED WITH A CONDITIONAL USE PERMIT.

13-2-4.5 ~~Nightclubs and dance halls.~~ Entertainment Establishments, located less than 200 feet from a residentially zoned property, as measured from the structure containing the establishment or the off-street parking area to the residential zone property line, and such establishments where the entertainment will be conducted outdoors.

ARTICLE 18

GENERAL PROVISIONS

Section 18-24 Entertainment Establishments

All entertainment establishments must meet the following minimum standards. Failure to maintain compliance shall result in the operation being declared in violation of the Zoning Ordinance. If an establishment desires to deviate from any of these standards, a conditional use permit shall be required.

18-24-1 General Standards

18-24-1.1 All exterior doors and windows must remain closed during operating hours.

18-24-1.2 No more than three criminal police calls, as determined by the Chief of Police, may be attributable to the establishment within a thirty day continuous period; after which private security shall be required in a manner approved by the Chief of Police.

18-24-1.3 **Hours of operation on Sundays through Thursdays shall not occur outside of 8:00 a.m. to 11:00 p.m. and Fridays and Saturdays shall not occur outside of 8:00 a.m. until 2:00 a.m. the following day.**

18-24-1.4 **The business shall comply with with applicable noise and maximum sound level regulations per Chapter 17 of Winchester City Code, as amended.**

0-2013-29

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 8/27/13 (work session), CUT OFF DATE: 8/21/13
9/10/13 (1st Reading) 10/8/13 (2nd reading)

RESOLUTION ___ ORDINANCE X PUBLIC HEARING X

ITEM TITLE:

RZ-13-380 AN ORDINANCE TO REZONE APPROXIMATELY 41.5 ACRES OF LAND CONTAINING APPROXIMATELY 86 PARCELS, EITHER IN FULL OR IN PART, TO BE INCLUDED IN THE CORRIDOR ENHANCEMENT (CE) DISTRICT; SUBJECT PARCELS ARE ADJACENT TO, OR WITHIN 400 FEET OF, THE BERRYVILLE AVENUE RIGHT-OF-WAY

STAFF RECOMMENDATION:

Approval

PUBLIC NOTICE AND HEARING:

Public hearing for 10/8/13 Council mtg

ADVISORY BOARD RECOMMENDATION:

Planning Commission recommended approval.

FUNDING DATA: N/A

INSURANCE: N/A

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

Table with 4 columns: DEPARTMENT, INITIALS FOR APPROVAL, INITIALS FOR DISAPPROVAL, DATE. Rows include Zoning, City Attorney, City Manager, and Clerk of Council.

Initiating Department Director's Signature: [Signature] 8/21/13



APPROVED AS TO FORM: [Signature] 8/21/2013 CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Mayor and Members of City Council

From: Tim Youmans, Planning Director

Date: October 2, 2013

Re: **RZ-13-380** AN ORDINANCE TO REZONE APPROXIMATELY 41.5 ACRES OF LAND CONTAINING APPROXIMATELY 86 PARCELS, EITHER IN FULL OR IN PART, TO BE INCLUDED IN THE CORRIDOR ENHANCEMENT (CE) DISTRICT; SUBJECT PARCELS ARE ADJACENT TO, OR WITHIN 400 FEET OF, THE BERRYVILLE AVENUE RIGHT-OF-WAY

THE ISSUE:

This is a city-initiated rezoning to establish the boundaries of the Berryville Avenue Corridor Enhancement District that was created by City Council in 2005.

RELATIONSHIP TO STRATEGIC PLAN:

Goal 4: Create a more liveable city for all

City Gateway Beautification as a High Priority Policy Agenda Action for 2013-2014

BACKGROUND:

See attached staff report

BUDGET IMPACT:

This CE overlay zoning will promote the aesthetic character and functionality of major tourist access corridors leading into the local and national Historic Winchester District. It will promote the general welfare of the community by attracting visitors and generating business through heritage tourism-based economic development

OPTIONS:

- Approve rezoning as recommended by Planning Commission
- Deny; leave Berryville Ave without gateway beautification called for in Strategic Plan

RECOMMENDATIONS:

- Planning Commission unanimously recommended approval.
- City Council reviewed the request in work session on August 27, 2013 and forwarded it for First Reading.
- First Reading was held on September 10, 2013; no changes made.

Council Work session
August 27, 2013

RZ-13-380 AN ORDINANCE TO REZONE APPROXIMATELY 41.5 ACRES OF LAND CONTAINING APPROXIMATELY 86 PARCELS, EITHER IN FULL OR IN PART, TO BE INCLUDED IN THE CORRIDOR ENHANCEMENT (CE) DISTRICT; SUBJECT PARCELS ARE ADJACENT TO, OR WITHIN 400 FEET OF, THE BERRYVILLE AVENUE RIGHT-OF-WAY.

REQUEST DESCRIPTION

This publicly sponsored rezoning request is to apply the Corridor Enhancement (CE) District to approximately 41.5 acres (part or all of 86 parcels) comprising land along Berryville Avenue, a key tourist entry route connecting to Exit 315 of Interstate 81 and designated as Virginia State Route 7 Corridor. The standards and guidelines for the Berryville Avenue CE Overlay District were unanimously approved by Council on April 12, 2005, and are intended to protect and promote major tourist access routes in the City.

AREA DESCRIPTION

The area of this rezoning begins on the east at the intersection of I-81 and Berryville Avenue and continues westward along both sides of Berryville Avenue to N. Pleasant Valley Road...

The underlying zoning of the affected area is a mix of Highway Commercial, B-2 and Medium Density Residential, MR District. Most of the north side of the corridor east of Dunlap Street and all of the south side of the corridor east of Elm Street is in commercial use. The corridor includes commercial uses along both sides of the corridor at the west end between Pleasant Valley Road and the intersection of Virginia Avenue. The remaining land, mostly along the south side, is zoned MR and is mostly in single-family residential use.

The following table lists the parcels that are to be rezoned and the approximate affected acreage:

Number	Range	Street	Tax Map ID	Affected Acreage	Current Zoning	Proposed Zoning
370		Battle Ave	175-05- -16	0.353	B-2	B-2(CE)
617		National Ave	195-01-A-1A	0.148	MR	MR(CE)
250		N. Pleasant Valley Rd	195-01-A-1B	0.021	MR	MR(CE)
300		N. Pleasant Valley Rd	175-05- -4	0.330	B-2	B-2(CE)
301	-317	N. Pleasant Valley Rd	175-05- -2-3	0.326	B-2	B-2(CE)
340		N. Pleasant Valley Rd	175-05- -A	3.362	B-2	B-2(CE)
702		Virginia Ave	175-04- -9-10	0.519	MR	MR(CE)
603		Woodland Ave	175-02-R-124	0.189	B-2	B-2(CE)
615		Woodland Ave	175-02-R-125	0.170	B-2	B-2(CE)
601		Berryville Ave	195-07-S-133C	0.374	B-2	B-2(CE)
625		Berryville Ave	195-07-S-133D	0.116	B-2	B-2(CE)
645		Berryville Ave	175-02-R-123B	0.207	B-2	B-2(CE)
649		Berryville Ave	175-02-R-123A	0.172	B-2	B-2(CE)
671		Berryville Ave	175-02-A-2	0.176	B-2	B-2(CE)
675		Berryville Ave	175-02-A-3	0.180	MR	MR(CE)
678		Berryville Ave	175-04- -B>A	0.400	MR	MR(CE)
679		Berryville Ave	175-02-A-4	0.156	MR	MR(CE)
680		Berryville Ave	175-04- -7A	0.158	MR	MR(CE)
682		Berryville Ave	175-04- -6	0.130	MR	MR(CE)
683		Berryville Ave	175-02-A-5	0.160	MR	MR(CE)
684		Berryville Ave	175-04- -5	0.160	MR	MR(CE)
687		Berryville Ave	175-02-A-6	0.184	MR	MR(CE)
691		Berryville Ave	175-02-A-7	0.189	MR	MR(CE)

695		Berryville Ave	175-02-A-8-9	0.313	MR	MR(CE)
702		Berryville Ave	175-01- -3	0.183	MR	MR(CE)
703		Berryville Ave	175-02-B-10	0.201	MR	MR(CE)
707		Berryville Ave	175-02-B-11	0.207	MR	MR(CE)
710		Berryville Ave	175-01- -2	0.482	B-2	B-2(CE)
711		Berryville Ave	175-02-B-12	0.212	MR	MR(CE)
712		Berryville Ave	175-01- -1B	0.230	B-2	B-2(CE)
715		Berryville Ave	175-02-B-13	0.200	MR	MR(CE)
719		Berryville Ave	175-02-B-14	0.182	MR	MR(CE)
723		Berryville Ave	175-02-B-15	0.221	MR	MR(CE)
726	-744	Berryville Ave	175-01- -1A	1.693	B-2	B-2(CE)
727		Berryville Ave	175-02-B-16	0.262	MR	MR(CE)
731		Berryville Ave	175-02-B-17	0.174	MR	MR(CE)
735		Berryville Ave	175-02-B-18	0.218	MR	MR(CE)
739		Berryville Ave	175-02-B-19	0.224	MR	MR(CE)
743		Berryville Ave	175-02-B-20	0.206	MR	MR(CE)
747		Berryville Ave	175-02-B-21	0.225	MR	MR(CE)
748		Berryville Ave	175-01- -1C	0.344	B-2	B-2(CE)
800		Berryville Ave	176-07- -1A	0.720	B-2	B-2(CE)
802	-822	Berryville Ave	176-07- -1D (partial)	0.262	B-2	B-2(CE)
803		Berryville Ave	175-02-C-22	0.225	MR	MR(CE)
807		Berryville Ave	175-02-C-23	0.225	MR	MR(CE)
811		Berryville Ave	175-02-C-24	0.223	MR	MR(CE)
815		Berryville Ave	176-04-C-25	0.223	MR	MR(CE)
819		Berryville Ave	176-04-C-26	0.222	MR	MR(CE)
823		Berryville Ave	176-04-C-27	0.222	MR	MR(CE)
826		Berryville Ave	176-07- -1B	0.404	B-2	B-2(CE)
827		Berryville Ave	176-04-C-28	0.223	MR	MR(CE)
828		Berryville Ave	176-07- -1C	0.669	B-2	B-2(CE)
831		Berryville Ave	176-04-C-29	0.221	MR	MR(CE)
835		Berryville Ave	176-04-C-30	0.220	MR	MR(CE)
836	-906	Berryville Ave	176-06- -8	1.730	B-2	B-2(CE)
839		Berryville Ave	176-04-C-31	0.109	MR	MR(CE)
903		Berryville Ave	176-04-D-32	0.220	MR	MR(CE)
907		Berryville Ave	176-04-D-33	0.217	MR	MR(CE)
911		Berryville Ave	176-04-D-34	0.214	MR	MR(CE)
914		Berryville Ave	176-07- -2C	0.651	B-2	B-2(CE)
915		Berryville Ave	176-04-D-35	0.211	MR	MR(CE)
919		Berryville Ave	176-04-D-36	0.208	MR	MR(CE)
923		Berryville Ave	176-04-D-37	0.205	MR	MR(CE)
927		Berryville Ave	176-04-D-38	0.200	MR	MR(CE)
928		Berryville Ave	176-07- -3	1.195	B-2	B-2(CE)
929		Berryville Ave	176-04-D-39	0.195	MR	MR(CE)
943		Berryville Ave	176-04-D- 41>A	0.542	B-2	B-2(CE)
1000		Berryville Ave	176-03- -1	0.502	B-2	B-2(CE)
1003		Berryville Ave	176-04-E-43	0.837	B-2	B-2(CE)
1010		Berryville Ave	176-03- -2	0.729	B-2	B-2(CE)
1019		Berryville Ave	176-04-E-47	0.230	B-2	B-2(CE)
1041		Berryville Ave	196-08-E-3	0.159	B-2	B-2(CE)
1042		Berryville Ave	176-03- -6>A	0.967	B-2	B-2(CE)
1100		Berryville Ave	176-03- -17-1B	0.364	B-2	B-2(CE)
1107		Berryville Ave	196-08-E-2	0.768	B-2	B-2(CE)
1109	-1139	Berryville Ave	196-08-E-A	2.173	B-2	B-2(CE)
1110		Berryville Ave	176-03- -19	0.191	B-2	B-2(CE)
1124		Berryville Ave	176-03- -20>A	0.970	B-2	B-2(CE)
1141		Berryville Ave	196-08-E-8	5.225	B-2	B-2(CE)
1200	-1202	Berryville Ave	177-02- -11	0.370	B-2	B-2(CE)
1208		Berryville Ave	177-02- -13	0.927	B-2	B-2(CE)
1217		Berryville Ave	196-08-E-47	0.510	B-2	B-2(CE)
1327		Berryville Ave	196-11- -1 (partial)	0.047	B-2	B-2(CE)
1333		Berryville Ave	196-11- -4	0.588	B-2	B-2(CE)
1351		Berryville Ave	197-02- -7B (partial)	0.662	B-2	B-2(CE)
1365		Berryville Ave	197-02- -7A	1.338	B-2	B-2(CE)

COMMENTS FROM THE PLANNING DEPARTMENT

The Comprehensive Plan calls for guiding the physical form of development along key tourist entry corridors leading into the City's core historic district by utilizing a combination of standards and guidelines. In 2013, City Council adopted a Strategic Plan which called for City Gateway Beautification in order to partly meet the goal of Creating a More Livable City for All. Another goal in the Strategic Plan is to Continue Revitalization of Historic Old Town. One of the objectives related to that goal is to Enhance Gateways to Historic Old Town. Council has previously approved CE Districts for Valley Avenue, Amherst Street, Cedar Creek Grade, and portions of S. Pleasant Valley Rd and E. Cork Street. Other CE Districts for which standards and guidelines are already adopted, but for which the overlay rezoning has not taken place include: Millwood Avenue, Fairmont Avenue, N. Loudoun Street, and National Avenue. The overlay CE zoning for the northernmost section of Valley Avenue has not been adopted yet either.

THE DISTRICT

Corridor Enhancement Overlay Districts provide guidelines and regulations for building aesthetics and site features; **it does not change the underlying zoning that regulates land use.** Some examples of CE standards include: building orientation, roof treatments, wall treatments, and placement of mechanical units. It guides any proposed exterior changes or new construction on a mixture of commercial and residentially-used land. The attached map depicts the specific boundaries of the district. Booklets outlining the standards and guidelines specific to Berryville Avenue and Valley Avenue are available in the Planning Office as well as on the City's website. There is also a booklet offering a general overview of the CE District provisions citywide.

DEVELOPING THE BOUNDARY

At its work sessions and 2013 Retreat, the Planning Commission carefully studied the characteristics of the Berryville Avenue Corridor which includes: existing physical development, land use, zoning, and view sheds to determine the optimal extents of the district along this corridor. This process included a detailed review of the corridor at two of the Commission's monthly work sessions. Invitations to attend an informational meeting held at the Berryville Avenue Hampton Inn on July 15, 2013 were mailed out on June 27th to the owners of the affected parcels. Invitations were mailed out as well on July 10th to the businesses along the corridor. Approximately 24 attendees came out to review the exhibits during the 3-hour long open house that ran from 5-8pm. No property owners expressed opposition to the overlay district, but numerous comments were received regarding infrastructure improvements and traffic control efforts.

Generally speaking, the proposed CE overlay district is fairly shallow along the south side of Berryville Avenue except where the Eastgate Shopping Center (i.e. Gold's Gym, etc.) has a large expanse of parking between the road and the commercial buildings. Along the north side it generally extends back to the rear of the fronting commercial lots, although it includes the Berryville Square Shopping Center that has a separately platted parking lot parcel out front. Only the front portion of the Apple Valley Square Shopping Center parcel (i.e. where Long John Silvers and the shopping center sign is situated) is included in the district.

CITIZEN COMMENTS

During the July public information session, staff received a couple of inquiries, but nobody expressed either strong support or opposition to the specific overlay zoning request. Four citizens spoke at the Planning Commission public hearing held on August 20, 2013. One homeowner spoke in support of the benefits of CE zoning. Two inquired about what the zoning meant for homeowners. One expressed

unrelated concerns about crime in the area and speed of traffic on Berryville Ave. No Berryville Ave business owners spoke at the public hearing.

RECOMMENDATION

At its August 20, 2013 meeting, the Commission forwarded Rezoning **RZ-13-380** to City Council recommending approval because the request is consistent with the Comprehensive Plan and protects and promotes the aesthetic character and functionality of a major tourist access corridor leading into the designated local (HW) and National Historic Winchester District, and as such, represents good planning practice.

AN ORDINANCE TO REZONE APPROXIMATELY 41.5 ACRES OF LAND CONTAINING APPROXIMATELY 86 PARCELS, EITHER IN FULL OR IN PART, TO BE INCLUDED IN THE CORRIDOR ENHANCEMENT (CE) DISTRICT; SUBJECT PARCELS ARE ADJACENT TO, OR WITHIN 400 FEET OF, THE BERRYVILLE AVENUE RIGHT-OF-WAY. **RZ-13-380**

WHEREAS, the Planning Commission resolved at its July 16, 2013 meeting to initiate the rezoning of this land as a publicly sponsored rezoning; and,

WHEREAS, it is in the interest of the City to protect and promote the aesthetic character and functionality of major tourist access corridors leading into the local and national Historic districts; and,

WHEREAS, it is in the interest of the City to promote the general welfare of the community by attracting visitors and generating business through heritage tourism-based economic development and enhance the overall appearance of the City's corridors, while improving access along the corridors through increased walkability and interconnectivity; and,

WHEREAS, the Planning Commission has studied the existing physical development, land use, zoning, topography, and view sheds of the Berryville Avenue Corridor from Pleasant Valley Road to the Eastern City Limits and has identified properties along the Berryville Avenue Corridor from Pleasant Valley Road to the Eastern City Limits that are suitable for inclusion in the Corridor Enhancement District; and,

WHEREAS, the City held a Public Information Meeting on July 15, 2013, pertaining to the proposed Berryville Avenue CE District.

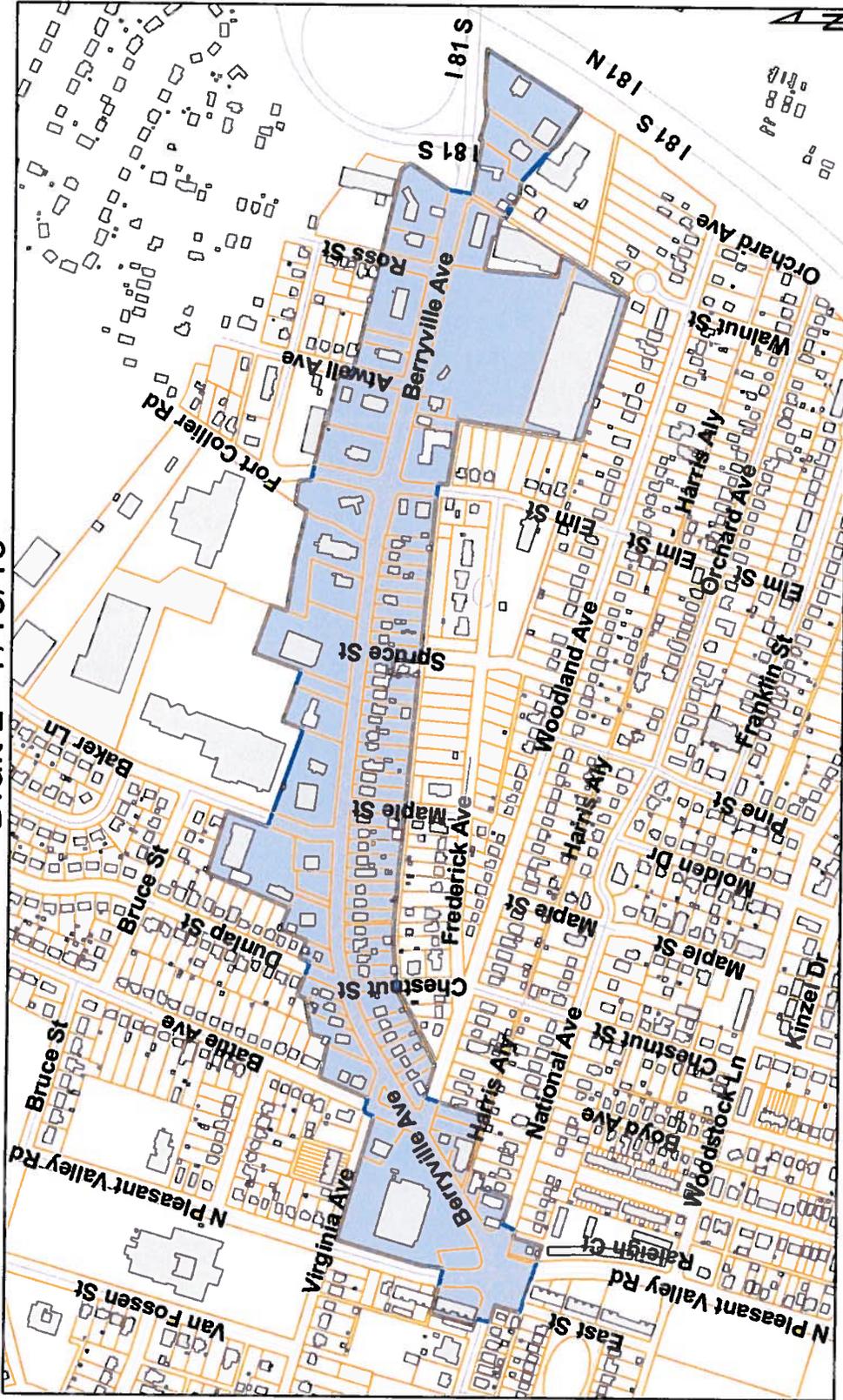
WHEREAS, the Planning Commission forwarded the request to Council on August 20, 2013 recommending approval of the rezoning as depicted on an exhibit entitled "*Proposed Berryville Ave CE District, Draft 2 - 7/16/13*" because the request is generally consistent with the Comprehensive Plan which calls for guiding the physical form of development along key tourist entry corridors leading into the City's core historic district by utilizing a combination of standards and guidelines ; and,

WHEREAS, a synopsis of this Ordinance has been duly advertised and a Public Hearing has been conducted by the Common Council of the City of Winchester, Virginia, all as required by the Code of Virginia, 1950, as amended, and the said Council has determined that the rezoning associated with these properties herein designated is consistent with the Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Winchester, Virginia that the following land is hereby rezoned to establish Corridor Enhancement (CE) District:

APPROXIMATELY 41.5 ACRES OF LAND CONTAINING APPROXIMATELY 86 PARCELS, EITHER IN FULL OR IN PART, SUBJECT PARCELS BEING ADJACENT TO, OR WITHIN 400 FEET OF, THE BERRYVILLE AVENUE RIGHT-OF-WAY as depicted on an exhibit entitled "*Proposed Berryville Ave CE District, Draft 2 - 7/16/13*"

Proposed Berryville Ave CE District
Draft 2 - 7/16/13



0-2013-30

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 8/27/13 (work session), CUT OFF DATE: 8/21/13
9/10/13 (1st Reading) 10/8/13 (2nd reading)

RESOLUTION ___ ORDINANCE X PUBLIC HEARING X

ITEM TITLE:

RZ-13-292 AN ORDINANCE TO REZONE 1.295 ACRES OF LAND AT 1720 VALLEY AVENUE (Map Number 231-04-K-8A) FROM HIGHWAY COMMERCIAL (B-2) DISTRICT WITH CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY TO B-2 DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) AND CE DISTRICT OVERLAY

STAFF RECOMMENDATION:

Approval as proffered

PUBLIC NOTICE AND HEARING:

Public hearing for 10/8/13 Council mtg

ADVISORY BOARD RECOMMENDATION:

Planning Commission recommended approval as proffered.

FUNDING DATA: N/A

INSURANCE: N/A

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

Table with 4 columns: DEPARTMENT, INITIALS FOR APPROVAL, INITIALS FOR DISAPPROVAL, DATE. Rows include Zoning, City Attorney, City Manager, and Clerk of Council.

Initiating Department Director's Signature: (Planning) [Signature] 8/21/13



APPROVED AS TO FORM: [Signature] 8/21/2013 CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Mayor and Members of City Council
From: Tim Youmans, Planning Director
Date: October 2, 2013
Re: RZ-13-292 AN ORDINANCE TO REZONE 1.295 ACRES OF LAND AT 1720 VALLEY AVENUE (*Map Number 231-04-K-8A*) FROM HIGHWAY COMMERCIAL (B-2) DISTRICT WITH CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY TO B-2 DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) AND CE DISTRICT OVERLAY

THE ISSUE:

Mr. Drew Scallan wishes to conditionally rezone 1.3 acres along the east side of Valley Avenue to B-2 with PUD overlay in order to construct up to 18 apartment units and between 4,567 and 8,049 square feet of commercial use in an existing building known as The Bottling Works (former Coca-Cola Building). The project is depicted on a required Development Plan and 8 proffers have been included in a binding Proffer Statement.

RELATIONSHIP TO STRATEGIC PLAN:

Goal 1: Grow the Economy

Goal 4: Create a more liveable city for all

Vision 2028- Great neighborhoods with a range of housing choices

BACKGROUND:

See attached staff report

BUDGET IMPACT:

This mixed use including new high-quality multifamily development geared to empty nesters and young professionals will generate direct and indirect revenue and create more demand for commercial development.

OPTIONS:

- Approve rezoning as proposed
- Deny; leave existing B-2 in place.

RECOMMENDATIONS:

- Planning Commission recommended approval as proffered.
- City Council reviewed the request in work session on August 27, 2013 and forwarded it for First Reading. Council inquired about ways to ensure that the work is undertaken in a timely manner. In response, the applicant has amended the Proffer Statement to add Proffer #9 committing to a 2 year period to commence work and to estimate completion in 12 months thereafter.
- First Reading was held on September 10, 2013; no additional changes made.

Council Work Session
August 27, 2013

RZ-13-292 AN ORDINANCE TO REZONE 1.295 ACRES OF LAND AT 1720 VALLEY AVENUE (Map Number 231-04-K-8A) FROM HIGHWAY COMMERCIAL (B-2) DISTRICT WITH CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY TO B-2 DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) AND CE DISTRICT OVERLAY

REQUEST DESCRIPTION

The request is to establish PUD zoning over the existing B-2 (CE) zoning on the Coca-Cola property along the east side of Valley Avenue. Proffers are included with this rezoning. The applicant is asking for approval of two development options. Option A would consist of 18 apartments and 5,678 square feet of commercial space. Option B would consist of 16 apartments and 8,049 square feet of commercial space. The existing ground floor office and some of the warehouse structure at 1720 Valley Avenue would be converted to retail use and the remainder of the structure (including newly created second story space) would be converted to apartment use known as 'The Bottling Works.' PUD allows for consideration of up to 18 residential units per acre; the proposal is for 16-18 apartment units on 1.295 acres.

The submitted Development Plan dated August 2, 2013 (updated on 8/20/13) depicts the existing structure and 45 on-site parking spaces as well as 14 parallel parking spaces within the adjoining public street rights of way along Roberts Street and Burton Street. Floor plans dated August 2, 2013 submitted as part of the revised application depict eight (8) two-story apartments in the northern warehouse addition, which today is a single-story high bay warehouse space. Four to six additional ground-floor apartments are depicted in the warehouse space to the rear of the proposed retail space and four (4) second story apartments are proposed above the retail space in the southwest part of the building.

AREA DESCRIPTION

The site has its main frontage of about 220 feet along Valley Ave, but it actually fronts on three public streets. It adjoins Burton Avenue for 193 feet to the north, a poorly defined public street within a 40-foot right of way between the Coca-Cola property and the adjoining paint store/apartment building to the north. The site also extends 237 feet along Roberts Street to the east.

The adjoining vacant property to the south at 1726 Valley Ave is zoned B-2 with Corridor Enhancement (CE) District overlay. A used car lot is situated further to the south at the corner of Valley Ave and Bellview Ave.



All of the other land bordering the rezoning tract to the south is zoned Medium Density Residential (MR). Use of the 5 MR lots is single-family detached. Land across Roberts St to the east is zoned High Density Residential (HR) and contains apartment use and single-family use. Land to the north across Burton Ave is zoned B-2 (CE) and contains mixed use consistent with what is proposed with the rezoning request. Land across Valley Ave to the west is zoned MR and contains single-family homes and a couple of apartments.

At 1.295 acres in size, the proposed PUD is considerably below the 5-acre minimum called out in Section 13-1-4.1 of the Zoning Ordinance. Staff advised the applicant to try to work with the owner of the mixed use development at 1650 Valley Ave immediately to the north across Burton Avenue. That property owner (Omni LC) considered the invitation, but subsequently declined. However, the Zoning Ordinance allows for the Planning Commission to recommend and City Council to approve a waiver of the 5-acre minimum when the applicant can show that strict adherence would produce unnecessary hardship and preclude development that is more compatible with the Comprehensive Plan than that which could be permitted without the PUD zoning.

STAFF COMMENTS

In a letter to the Planning Director dated May 31, 2013, Mr. J.A. Scallan, co-owner and applicant (1720 Valley Avenue LLC) explains the proposed rezoning and the proposed mixed use project. The August 2, 2013 version of the Development Plan (updated on 8/20/13) is titled "Conceptual Site Layout Plan, Rezoning Exhibit 'A' " The Project title is 'Proposed Commercial & Apartment Complex, Coca-Cola Plant Renovation'.

Comprehensive Plan Consistency

The comprehensive plan calls for Commerce Center/Corridor reuse incorporating New Urbanism while also protecting significant private architectural resources such as the Coca-Cola plant. In Chapter 4 – Economic Development & Appendices, the Coca-Cola plant is identified as a Key Site to improve/change by citizens participating in Comp Plan public input meetings. In general the Plan advocates the following:

Citywide Design Objective #1:

"Employ New Urbanism Principles in new development and redevelopment."

Citywide Design Objective #2:

"Protect significant public and private architectural and historic resources in the City."

Citywide Housing Objective #6:

"Promote decent affordable housing, particularly to serve targeted populations such as young professionals and retirees."

The proposed upscale industrial loft-styled apartments would serve these targeted populations. The site is also situated in close proximity to a transit stop on the Valley Avenue bus route.

Potential Impacts & Proffers

The applicant submitted voluntary proffers to mitigate potential impacts arising from the rezoning of the property to establish PUD overlay zoning. The Proffer Statement was last revised at the August 20th Planning Commission meeting. Generally, the impacts from this rezoning appear to be positive impacts. It is unlikely that the 16-18 units will create negative impacts in the form of school-aged children requiring public education.

Option A includes 13 two-bedroom units, 2 one-bedroom units with dens, and 3 one-bedroom units for a total of 18 units. Option B includes 12 two-bedroom units, 2 one-bedroom units with dens, and 2 one-bedroom units for a total of 16 units. The applicant notes that the industrial loft apartments will instead appeal to young professionals and empty-nesters.

The Planning Commission did not require a Fiscal Impact Analysis nor a Traffic Impact Analysis which are two studies that can be required by the Planning Commission for a PUD rezoning application per Sections 13-4-2.2k and l of the Zoning Ordinance.

Site Development and Buffering

Buffering has been provided to screen some of the first floor apartments in the building, including the 4 units on the Valley Avenue side of the north warehouse. The applicant is proposing some semi-private patios for two of the four of the apartments that face to the main parking lot at the Roberts St (east) end. Staff has suggested that private patios for all 4 units would be desirable to avoid having headlights shine into the ground floor bedroom windows. Screening has been depicted along the boundary in common with the MR zoned single-family lots along the north side of Bellview Ave to the southeast.

Recreation and Open Space

The applicant is not proposing any recreational amenities. Staff had suggested that the applicant consider providing additional private patios where possible. The applicant has reduced the amount of impervious asphalt and concrete coverage on the site since the proposed mixed use will require many fewer spaces than the previously proposed office use and the obsolete industrial use.

Storm water Management

Storm water management will need addressed, but can be handled during the time of site plan review.

Water & Sewer

Concerns about sewer backups were raised by nearby property owners during the July 16, 2013 Planning Commission public hearing. The City Engineer and Utilities officials investigated these concerns. The sanitary sewer issues are actually connected to a completely separate main than what the Coca-Cola building does and will continue to connect to and won't be affected by an increased sewer flows from that building. The main that serves the properties at 1638 – 1644 Roberts is a 4" cast iron main. City maintenance crews are aware of the issues and as a result, it gets cleaned quarterly. The 6" main in Roberts Street that Coca-Cola is connected to (on the back side of the building) gets routine root maintenance on a three-year cycle, but other than roots, there haven't been issues. The next root cleaning for that main will be in the next year.

Density

The applicant proposes a maximum of 5 one-bedroom units, and 13 two-bedroom units. PUD overlay allows for consideration of up to 18 dwelling units per acre, which in the case of 1.29 acres would translate to a maximum of 23 dwelling units. The applicant is proposing a maximum of 18 dwelling units. The actual project density comes out to 13.9 units per acre.

Project Phasing

The applicant has not indicated that there is any proposal to phase in the project as part of the PUD rezoning. It is likely, in the current economy, that some or all of the 5,678 to 8,049 square feet of retail (or other nonresidential use) will remain vacant longer than the apartment use.

Other Issues

Variances from the Board of Zoning Appeals will not need to be approved for the proposed commercial and residential use of the existing nonconforming structure so long as the PUD rezoning is approved by City Council. Variances were previously approved by the BZA for proposed medical and general office use. While the Development Plan does not include a statement detailing covenants, restrictions, and conditions pertaining to the use, maintenance and operation of common spaces, the Proffer Statement does include a proffer to that effect.

Design Quality

The applicant has submitted updated floor plans for this rezoning proposal, and there are proffers addressing design quality. The submitted typical floor plans depict the size and configuration of the various unit types and the location of the retail space. The floor plans show numerous skylights and window walls allowing for natural light into the otherwise windowless corridors and some windowless bedrooms.

Elevations have been provided to ensure that architectural integrity of the historic structure is preserved where applicable, especially on the Valley Avenue elevation. There are proffers ensuring adherence to the submitted elevations. The site is situated within the Valley Ave Corridor Enhancement (CE) District so all exterior modifications will be subject to review and approval of a CE Certificate of Appropriateness. The introduction of doors and windows and the removal of overhead doors will bring the building into greater compliance with the CE standards and guidelines. While building elevations and floor plans are not explicitly required for PUD applications, Section 13-4-2 of the WZO states that the Development Plan shall contain supplementary data for a particular development, as reasonably deemed necessary by the Planning Director.

RECOMMENDATION

Generally, staff feels that the proposal is consistent with many of the broader elements of the City's long-term vision to attract more young professionals and empty-nesters to the City. Staff feels that the use of the PUD provision for this 1.295-acre site is acceptable even though it is considerably less than five acres in size.

At its August 20, 2013 meeting, the Planning Commission forwarded Rezoning **RZ-13-292** to City Council recommending approval subject to the proffers in the Proffer Statement dated August 20, 2013 because the proposed B-2 (CE)(PUD) zoning, supports mixed use and the expansion of housing serving targeted populations as called out in the Comprehensive Plan. The recommendation is based upon adherence with the Development Plan titled Conceptual Site Layout Plan, Rezoning Exhibit 'A' dated August 2, 2013 (with revisions of August 20, 2013) .

The Planning Commission recommends that City Council approve a waiver of the 5-acre minimum per Section 13-1-4.1 of the Zoning Ordinance to allow a 1.295 acre PUD because the applicant has shown

that strict adherence would produce unnecessary hardship that would preclude development that is more compatible with the Comprehensive Plan than that which could be permitted without the PUD zoning.

1720 Valley Avenue LLC
2200 Wisconsin Avenue NW, Suite 100
Washington DC 20007

Planning Dept.
Rouss City Hall
15 North Cameron Street
Winchester VA 22601



May 31st 2013

To whom it may concern,

Please allow this letter to serve as a request to the City Council to allow a Planned Unit Development overlay for 1720 Valley Avenue in the City of Winchester. 1720 Valley Avenue LLC is the owner of the land and buildings that housed the former Coca Cola Bottling Works at that location.

The proposed plan for the Planned Unit Development consists of a retail space fronting on Valley Avenue of approximately 4,600 square feet and eighteen total apartments including 13 two bedroom two bath and 5 one bedroom one bath. The proposed apartments will be true "industrial loft style" units and will make the best possible use of the historic fabric of the existing building.

The plan also includes significant site improvement providing 60 on site parking spaces and 14 street parking spaces and extensive landscaping as part of the improved site plan.

To accomplish this mix of units we respectfully request a Planned Unit Development overlay for the site to allow residential apartments on the first floor and to increase the allowable density of apartments in B-2 zone to the maximum allowable in a PUD of 18 dwelling units per acre.

In line with the comprehensive plan for the City of Winchester this development will "respect the significant historic identity" of the building by maintaining the historically significant façade as a commercial space. Additionally this project will contribute to the comprehensive plan goal of making Winchester a "Community of Choice" by providing a unique residential experience that would appeal to a wide variety of potential renters including young professionals and retirees.

If approved, this plan will transform the existing historic structure into a vibrant exciting place that will contribute greatly not only to the major tourist artery of Valley Avenue but also to the stock of successful adaptive reuse projects in the City of Winchester.

Please feel free to contact our team should you have any further questions.

Yours faithfully,


Mr J. A. Scallan
info@scallanproperties.com
(202) 544-6500 (ext. 700)

The Bottling Works
RZ-13-292
REZONING REQUEST PROFFER
(Conditions for this rezoning request)

Tax Map Number: 231-04-K-8A

Owner: 1720 Valley Avenue LLC

Dated September 4, 2013

Property Information:

The undersigned applicant hereby proffers that in the event the Council of the City of Winchester approves the rezoning of 1.295 acres of land including existing buildings at 1720 valley Avenue from B-2 (Highway Commercial) to B-2 with a Planned Unit Development (PUD) overlay then the development and adaptive reuse of the existing buildings will be completed in conformity with the terms and conditions as set forth below, except to the extent that such terms and conditions may be subsequently revised by the applicant due to constraints and requirements of the Virginia Department of Historic Resources or the United States Department of the Interior. In the event that the rezoning is not granted these proffers shall be deemed withdrawn. These proffers shall be binding on the applicant and their legal successor and assigns.

Improvements

1. The property will be developed and landscaped substantially in conformance with the Development Plan, dated August 2, 2013/revised August 20, 2013 and the Building Plans, dated August 2, 2013. The site will be improved to include parking, storm water management and green space landscaping maintained by a landscape contractor. The Building Plans depict the style and character of the interior spaces.
2. The facades of the existing buildings will be developed substantially in conformance with the submitted Elevations, dated August 2, 2013, that depict the style and character of the design. The development will preserve the historic facades of the original 1940s Coke building while adding fenestration and other surface treatments to the more recent facades to improve their character. These improvements will make the newer facades more compatible with the historic Coke building and the new interior uses. The improvements on the facades include but may not be limited to stucco, glass entry systems, metallic panels, entry canopies and appropriate lighting.
3. The materials and methods used in the adaptive reuse of the existing building will conform to the rigorous standards and practices as described in the United States Secretary of the Interior's Rehabilitation Standards for Historic Buildings.

4. The maximum number of residential units shall be limited to 18. The units will be a mix of 1 bedroom and 2 bedroom units. There will be no 3 bedroom units.
5. The maximum amount of rentable commercial/retail space will be 8,049 Sq. Ft.
6. The residential apartments will be constructed to a high standard of finish and designed to express the industrial style of the building. The units will be loft like spaces with high open ceiling spaces, exposed steel framing, exposed concrete floors and industrial stairs.
7. The interior of the commercial/retail space will meet the standards of the Virginia Department of Historic Resources and the US Department of the Interior to qualify for their Historic Preservation Certification program and will reflect the industrial character of the building.
8. The residential and commercial/retail space will be operated under a set of rules and regulations developed by the Owner to ensure a safe, high quality environment for all tenants. These rules and regulations may be amended by the Owner from time to time at its sole discretion.
9. The construction phase of the project will commence within 24 months of the PUD approval. The construction of the project is estimated to require 12 months.

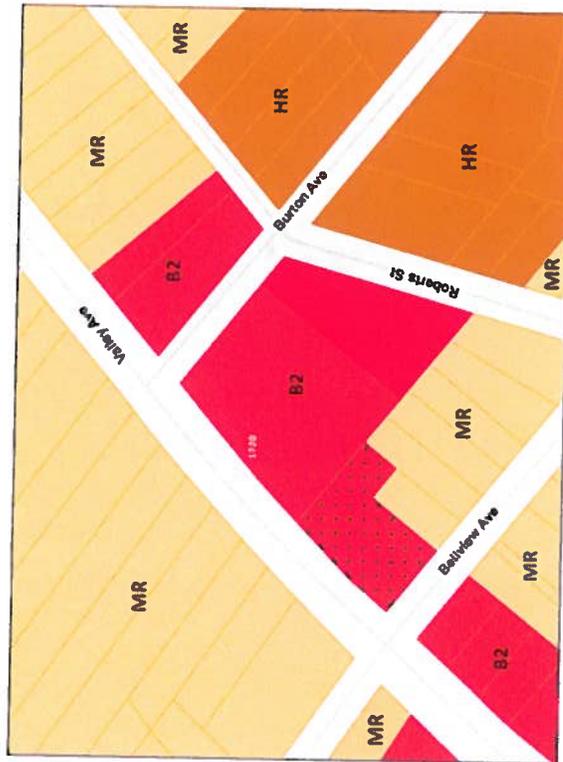
These proffers are offered in conjunction with the Development Plan, dated August 2, 2013/revised August 20, 2013, Building Plans and Building Elevations dated August 2, 2013. If the rezoning is approved by the City Council a full set of construction plans will be developed from these design documents and submitted for review and approval by the appropriate departments of the City of Winchester. If the plans are approved by the reviewing City departments these proffered conditions will apply to the rezoned land and existing buildings and be binding upon the applicant, their successors and assigns.

Applicant:

1720 Valley Avenue LLC
By Mr. John Eichberg
Managing Member

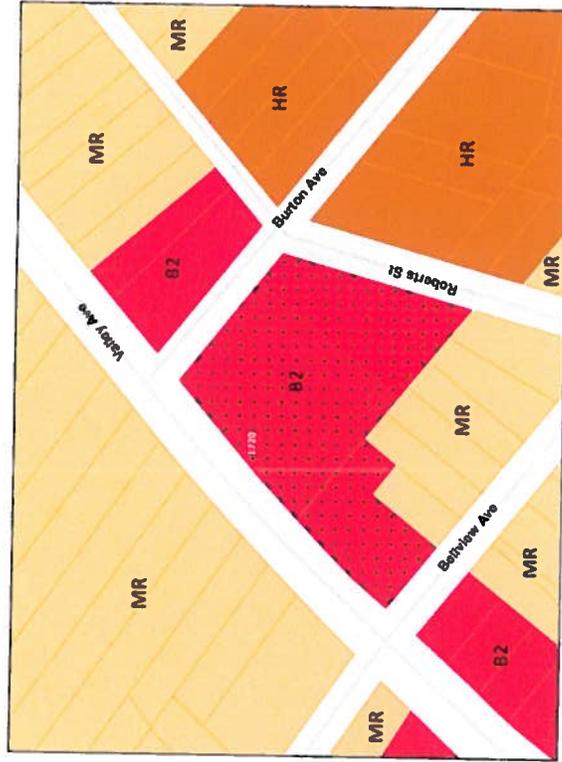
REZONING EXHIBIT RZ-13-292

PREPARED BY WINCHESTER PLANNING DEPARTMENT
AUGUST 20, 2013



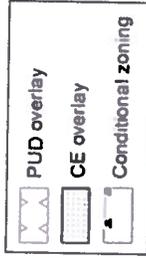
EXISTING

B-2 (part CE) ZONING FOR 1720 VALLEY AVENUE



PROPOSED

CONDITIONAL B-2 (PUD /part CE) ZONING FOR 1720 VALLEY AVENUE



CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 9/10/13 (regular meeting), **CUT OFF DATE:** 9/04/13
9/10/13 (first reading) 10/8/13 (second reading/public hearing)

RESOLUTION **ORDINANCE** X **PUBLIC HEARING** X

ITEM TITLE:

TA-13-138 AN ORDINANCE TO AMEND AND REENACT ARTICLES 18, 21, 23, AND 14.2 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO SIGNS, VIOLATION AND PENALTY, FEES, AND CORRIDOR ENHANCEMENT. (Revision to temporary sign provisions and permit requirements)

STAFF RECOMMENDATION:

Approval.

PUBLIC NOTICE AND HEARING:

Public hearing on 10/8/13

ADVISORY BOARD RECOMMENDATION:

Planning Commission recommended approval.

FUNDING DATA: N/A

INSURANCE: N/A

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. Planning			9/9/13
2. City Attorney			9/5/2013
3. City Manager			9-5-13
4. Clerk of Council			

Initiating Department Director's Signature: 9/4/13
 (Zoning and Inspections)



APPROVED AS TO FORM:

CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council

AMG From: Aaron Grisdale, Director of Zoning and Inspections

Date: September 10, 2013

Re: O-2013-14, Zoning Text Amendment (TA-13-138) – Temporary Signs

THE ISSUE:

The proposed Zoning Ordinance text amendment will modify the existing Zoning Ordinance language pertaining to temporary signs, fees, and penalties.

RELATIONSHIP TO STRATEGIC PLAN:

This text amendment correlates to the 2018 Goal #4 of "Create a More Livable City for All" as well as the policy agenda item of City Gateway Beautification for the major entrance corridors of the City.

BACKGROUND:

Council considered this item during their April 23rd work session, and held a public hearing on June 11, 2013. After hearing concerns from several local entities and businesses during the public hearing, staff held meetings with the Chamber of Commerce, Museum of the Shenandoah Valley, and other interested local businesses. As a result of these meetings and conversations, staff has prepared changes to the proposed text amendment to incorporate some of the concerns and recommendations of these groups.

In the first week of August, staff submitted the revised draft of the zoning text amendment to the Chamber of Commerce. The Chamber provided the updated proposed ordinance with changes to its members, who then provided feedback and comments to staff.

September 3, 2013 - Update

During the Council work sessions on August 20th and 27th this item was discussed with Council. Council provided direction to eliminate the permit requirement, consider an alternate allocation of temporary signage that is proportional to the amount of lot frontage and set a maximum number of temporary signs per property.

This version of the text amendment, Draft 7, includes the aforementioned revisions desired by Council. The temporary sign permit provisions were removed, and an allocation of temporary signs proportional to the amount of frontage on a public street was included. The proposed allocation allows for one temporary sign per 50-feet of public street frontage with a maximum of four signs per property. The previously included maximum size, required setback, and height provisions were maintained from the previous version. Two tables were included in this draft to help make the ordinance easier to read and understand. (Full staff report attached).

BUDGET IMPACT:

No funding is required.

OPTIONS:

- Adopt the Zoning Ordinance Text Amendment
- Decline to adopt the Zoning Ordinance Text Amendment

RECOMMENDATIONS:

Planning Commission and staff recommend approval.

City Council
September 10, 2013

TA-13-138 AN ORDINANCE TO AMEND AND REENACT ARTICLES 18, 21, 23, AND 14.2 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO SIGNS, VIOLATION AND PENALTY, FEES, AND CORRIDOR ENHANCEMENT.

REQUEST DESCRIPTION

This publicly sponsored text amendment is to serve as a refinement of the existing temporary sign ordinances, and provide clearer standards pertaining to size, number, and duration of display for such temporary signs. Additionally, the amendment will provide for a temporary sign permit requirements for some commercial signage as well as shorten the appeal period for sign violations.

STAFF COMMENTS

Presently, the Zoning Ordinance is vague when setting standards for temporary signs throughout the City. Many classifications of signs do not have a maximum size, limit for the number or time duration limitation. This proposed amendment seeks to provide clearer standards for temporary signs, while still allowing flexibility for individuals, groups, and businesses to conduct outside advertising on site.

The major changes include:

- Establishing maximum size, setback requirements, duration limitations, height and allowable number of sign standards for several classifications of signs.
- Creating and modifying definitions of several types of signs to make the Zoning Ordinance easier to interpret for citizens and business owners.
- Creation of a requirement for a temporary sign permit for several classifications of temporary commercial signs.
- Shortening the appeal period for temporary sign violations from 30 days to 10 days.
- Clarify standards for electronic message board signs, specifically as to the frequency of message changes.

As the Zoning Ordinance is currently constituted, enforcement of temporary signs is time and labor intensive. Absent a temporary sign permit requirement, there is no staff check or review on proposed temporary signage or trigger to initiate conversations between a business owner and staff to discuss regulations. When staff does identify a sign violation, the current appeal period of thirty (30) days results in a significant lag between notice of violation and resolution; with a shortened appeal period of ten (10) days, staff can more quickly initiate other enforcement measures such as civil penalties or court action, if needed. The changes proposed within the amendment will allow for expedited enforcement of such violations.

As part of City Council's Strategic Plan, the "Vision 2028" includes the establishment of Winchester as "a Beautiful, Historic City and a Hometown for Families." Having clear sign standards is important for the creation of a beautiful City, by creating harmonious neighborhoods and proportional sign standards. Furthermore, the Winchester Comprehensive Plan calls for Winchester to be a "Community of Choice" and reducing sign clutter and improving the overall appearance of the community can contribute towards that goal.

Lastly, the proposed amendment will benefit businesses by continuing to allow for a variety of options and flexibility for conducting as needed temporary advertisements, thus resulting in a growing economy.

UPDATE For Council Work Session 8/20/13:

City Staff has had discussions with several businesses and organizations including the Chamber of Commerce regarding this temporary sign ordinance. As a result of the concerns that were voiced during Council's public hearing as well as the questions and concerns brought up during these other discussions, staff has proposed a few revisions to this text amendment. Earlier in August, staff provided a copy of the updated zoning text amendment to the Chamber of Commerce to solicit comments and feedback from the revisions. Staff believes that this draft of the text amendment balances the input received from the local community as well as the steps needed to bring the City's Zoning Ordinance closer in line with Council's Strategic Plan. Specifically the changes include:

- A change to exempt government signs from the requirements of the sign ordinance; such signs include but are not limited to street signs, highway markers, and traffic control devices. (Section 18-8-2.4)
- Adding language to ensure that political campaign signs are only installed on private property with the consent of the property owner. (Section 18-8-12.2c)
- Adding language to special event signs to allow for them to be located on public property with approval of the City Manager or his designee. This was to ensure there is no conflict with special event signs that may be placed on the public right-of-way along the Loudoun Street Mall with special approval. (Section 18-8-12.2e)
- A change to signs for outdoor sales of merchandise to allow for a temporary sign for outside vendors and outdoor display of merchandise associated with a permit on the Loudoun Street Mall. (Section 18-8-12.2f)
- Allowing for a temporary "OPEN" business flag sign affixed to the building. Such signs may not exceed 15 square feet. (Section 18-8-12.2i)
- Adding language to allow for development banners to be affixed to poles inside of a commercial shopping center or medical campus, provided such signs do not exceed 6 square feet. (Section 18-8-12.2j)
- Adding clarifying language that incidental price or advertising signs, such as the small signs on the top of a fuel pump or a price sign on a vehicle or other merchandise does not require a sign permit. (Section 18-8-12.2k)
- A change to the allocation of portable signs on a property from one sign per street frontage to one sign per business; with the caveat that no more than two signs be located within 100-feet of each other within the limits of the development, similar to the current regulations for permanent directional signs. This change will allow greater flexibility on larger parcels that contain numerous business tenants. (Section 18-8-12.3c)
- Increasing the number of temporary sign permits that can be issued per year from three to four; and changing the allocation from permits per property, to permits per business/tenant. (Section 18-8-12.3)
- Adding a classification of signs for regional tourism destinations. This will allow for unique properties that serve as a regional draw for tourists, such as the Museum of Shenandoah Valley and the Winchester Frederick County Visitor Center, to display advertisements for special events/displays. (Section 18-8-12.3e)

- Clarifying the definition of a "Portable Price or Advertising Sign" to eliminate the inclusion of portable flag signs, since they are already prohibited elsewhere in the Ordinance. (Section 18-8-18.17)
- Clarifying the definition of "Temporary Sales Sign" for special temporary permitted sales events such as fireworks or Christmas tree sales; and clarifying that these signs do not include the temporary signs in the Primary and Secondary Assessment districts. (Section 18-8-18.19)
- Changing the proposed temporary sign permit fee from \$40 to \$25 per permit. (Section 23-8-12)

Update For Council Meeting 9/3/13:

During the Council work sessions on August 20th and 27th this item was discussed with Council. Council provided direction to eliminate the permit requirement, consider an alternate allocation of temporary signage that is proportional to the amount of lot frontage and set a maximum number of temporary signs per property.

This version of the text amendment, Draft 7, includes the aforementioned revisions desired by Council. The temporary sign permit provisions were removed, and an allocation of temporary signs proportional to the amount of frontage on a public street was included. The proposed allocation allows for one temporary sign per 50-feet of public street frontage with a maximum of four signs per property. If a property has multiple street frontages then each frontage will be included in the calculation. If a property does not meet the required 50-foot frontage requirement, they will be permitted to have one temporary sign.

The previously included maximum size, required setback, and height provisions were maintained from the previous version. Two tables were included in this draft to help make the ordinance easier to read and understand. Lastly, a provision was included to keep minimum spacing on site. The proposed spacing requirement is tied to the speed limit of the street that the property fronts upon. If the posted speed limit is 25 miles per hour or less, the spacing required will be 50-feet. For streets with a higher travel speed and higher speed limit the spacing requirement will be increased to 75-feet.

RECOMMENDATION

During their April 16, 2013 meeting, the Planning Commission unanimously recommended approval and adoption of this text amendment because it represents good planning practice by providing for reasonable standards for temporary signs while allowing flexibility for citizens and businesses to conduct temporary advertisements and announcements.

RESOLUTION ADOPTING AN ORDINANCE TO AMEND AND REENACT ARTICLES 18, 21, 23, AND 14.2 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO SIGNS, VIOLATION AND PENALTY, FEES, AND CORRIDOR ENHANCEMENT.

TA-13-138

WHEREAS, the Code of Virginia provides that one of the purposes of a Zoning Ordinance is to facilitate the creation of a convenient, attractive and harmonious community; and

WHEREAS, the Zoning Ordinance sign provisions have been established in order to ensure that signs are appropriate to the land, building, or use to which they are appurtenant and are adequate, but not excessive, for their intended purpose; and,

WHEREAS, the proposed Ordinance amendments will provide clearer established parameters for the size, location, and duration of display for temporary signs; and,

WHEREAS, in order to facilitate a dynamic and thriving community, uniform sign standards will allow for flexible opportunities for businesses, individuals, and other entities to communicate with the community.

NOW, THEREFORE, BE IT RESOLVED that the Common Council of the City of Winchester hereby adopts the following text amendment, which shall become effective ninety (90) days following the date of adoption:

AN ORDINANCE TO AMEND AND REENACT ARTICLES 18, 21, 23, AND 14.2 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO SIGNS, VIOLATION AND PENALTY, FEES, AND CORRIDOR ENHANCEMENT.

TA-13-138

DRAFT 7 – 9/3/13

*Ed. Note: The following text represents excerpts of the Zoning Ordinance that are subject to change. Words with ~~strikethrough~~ are proposed for repeal. Words that are **boldfaced and underlined** are proposed for enactment. Existing ordinance language that is not included here is not implied to be repealed simply due to the fact that it is omitted from this excerpted text.*

WINCHESTER ZONING ORDINANCE

ARTICLE 18

SECTION 18-8. SIGNS.

- 18-8-1 INTENT. The intent of this Article is to establish limitations on signs in order to ~~ensure~~ **ensure** that they are appropriate to the land, building, or use to which they are appurtenant and are adequate, but not excessive, for their intended purpose. Any widespread display of outdoor advertising is considered inappropriate to the character and sound development of the City, and it is intended by this Article that the streets and highways in the City shall not be made available for such display.
- 18-8-2 PERMIT REQUIRED. A sign permit shall be required before a sign is erected, altered, or relocated, except as otherwise provided herein.
- 18-8-2.1 Applications. Each application for such permit shall be accompanied by plans showing the area of the sign; the size, character, and design proposed; the method of illumination, method of fastening such sign; the name and address of the sign owner and of the sign erector. Fees for sign permits shall be in accordance with the schedule of fees for building permits as adopted by the City Council. A sign permit shall become null and void if the work for which the permit was issued has not been completed with a period of six (6) months after the date of issuance of the permit.
- 18-8-2.2 Permit Exceptions. A permit shall not be required for the following; but such signs shall be subject to any and all applicable provisions of this Ordinance:
- Any **permanent** sign four (4) square feet or less in area.
 - Repainting without changing wording, composition, or color, or minor nonstructural repairs.
 - Changing the wording ~~or face of~~ a sign that was erected in accordance with the provisions of this Article.
 - Temporary signs and signs painted on or hung behind windows as permitted in all districts under Section 18-8-12, **except as provided in this Ordinance.** (10/09/01, Case No. TA-01-05)
 - Signs indicating the location of a community garden or market garden, provided that such signs shall not exceed four (4) square feet in area and

Deleted: ~~The Zoning Administrator shall promulgate an application form for applicants to comply with this subsection. A complete temporary sign permit application submitted to the Zoning Administrator shall be decided upon no later than ten (10) business days following submission.~~

Deleted: ~~provided in Section 18-9-12.2.~~

shall not exceed six (6) feet in height. Such signs may include information, identification, and sponsorship reference. (10/12/10, Case TA-10-418, Ord. No. 2010-51)

18-8-2.3 **Unless otherwise provided for within this Ordinance, all signs, temporary or permanent, shall be set back from the front property line by a minimum of five (5) feet, except within the B-1 and RB-1 districts.**

18-8-2.4 **The requirements of this section shall not apply to any permanent or temporary signs issued or installed by the state, local government, any political subdivision thereof, or the employees or agents of such entities.**

18-8-11 SIGNS PERMITTED IN THE HW DISTRICT. No ~~permanent~~ sign shall be erected or altered in the Historic Winchester (HW) District until a Certificate of Appropriateness has been issued by the Zoning Administrator or Board of Architectural Review, unless otherwise provided in this Ordinance. These signs are subject to the provisions of Article 14 and design guidelines as may be adopted by the Board of Architectural Review. Signage shall not be internally illuminated. Roof mounted signs, banners, and pennants are prohibited, with the exception that one sign provided in Section 18-8-12.2 may be installed per property in accordance with the provisions of that Section. (9/11/01, Case TA-01-02, Ord. No. 029-2001; 3/8/05, TA-04-08, Ord. No. 007-2005)

18-8-11.1 **SIGNS PERMITTED IN THE CE DISTRICTS. No sign shall be erected or altered in one of the Corridor Enhancement (CE) Districts until a Certificate of Appropriateness has been issued by the Planning Department, unless otherwise provided in this Ordinance, and which Certificate of Appropriateness shall be issued upon conformity with all the provisions and design criteria of Article 14.2 of this Ordinance.**

18-8-12 SIGNS PERMITTED IN ALL DISTRICTS. The following signs shall be permitted in all districts. ~~Unless otherwise indicated, Temporary Signs and signs painted on or hung behind windows shall not require a sign permit.~~ The area of any sign shall not be included in computing the aggregate sign areas specified for individual districts. (9/11/01, Case TA-01-02, Ord. No. 029-2001)

18-8-12.1 Temporary Signs, which shall be non-illuminated, and are limited to the following types:

18-8-12.2 **The following temporary signs may be installed by-right without fee or Certificate of Appropriateness, provided the sign is installed in accordance with the size, location, and duration standards outlined in this section. No setback from property lines shall be required for any signs permitted in this section:**

Deleted: a temporary sign permit.

- a. Construction Signs, ~~which identify the architects, engineers, contractors and other individuals or firms involved with the construction.~~ One sign per

- individual or firm involved with construction is permitted, and each sign shall not exceed four (4) square feet in area for a single family residential project and sixteen (16) square feet for any other project, and shall be removed immediately following the completion of the project.
- b. Real Estate Signs, advertising the sale, rental, or lease of the premises, or part of the premises on which the signs are displayed. Signs shall not exceed four (4) square feet in area on residential properties or sixteen (16) square feet for non-residential properties and shall be removed immediately after sale, lease or rental. One sign per street frontage is permitted. On properties two (2) acres or larger, residential signs may be up to twelve (12) square feet and non-residential signs may be up to a maximum of thirty-two (32) square feet.
 - c. Political Campaign Signs, announcing the candidates seeking public political office and other data pertinent thereto. These signs shall be confined within private property, erected only with the consent of the owner of the private property, and removed within fourteen (14) days after the event for which they were made.
 - d. Street Banners, advertising a public entertainment or event, if specifically approved by the City Council and only for locations designated by the City Council, during and for fourteen (14) days before and after the event for which they were made.
 - e. Signs advertising only the name, time and place of any bona fide fair, carnival, festival, bazaar, horse show, or similar event, when conducted by a public agency or for the benefit of any civic, fraternal, religious, or charitable cause: provided that all such signs shall be removed within five (5) days after the last day of the event to which they pertain. Such signs may be installed in the public right-of-way only upon approval by the City Manager or his designee.
 - g-f. Signs advertising storage of materials and supplies or display of merchandise for sale or rent shall be permitted but shall not be visible from off-site, except for one temporary sign up to twelve (12) square feet may be used as part of an outdoor vendor or outdoor display of merchandise permit as provided for in Section 18-7 of this Ordinance. (10/17/95, Case TA-95-04, Ord. No. 053-95)
 - g. Signs advertising an on-site yard sale. One such sign may be placed upon the property for which the yard sale is taking place and may be up to a maximum of eight (8) square feet. Such signs may be placed on site three (3) days before the sale, and must be removed upon completion of the sale.
 - h. Non-commercial Signs. One such sign may be placed upon a property. If a residential property contains more than one unit, one sign per residential unit is permitted. Such signs shall not exceed twelve (12) square feet, have a height of not greater than four (4) feet, and must be freestanding and not affixed to a wall, fence, structure, vehicle, or landscaping.

- i. **Open Business Sign. One such flag sign not to exceed fifteen (15) square feet may be affixed to the building that bears the word "OPEN" or other words depicting the nature of the business. Should the flag contain any corporate logo or text, the sign will not meet this definition. Such signs may only be on display during the operational hours of the business.**
- j. **Development Banner. Banners identifying the name or simple announcement of a commercial center, medical campus, or similar development, provided that such signs do not exceed six (6) square feet and are securely affixed to a building or pole on private property.**
- k. **Incidental Price and Advertising Signs, any temporary advertising sign less than two (2) square feet in area. One such sign may be affixed to the product being advertised. For service establishments, a maximum of one sign may be affixed to a gasoline or petroleum fuel pump.**

Table 18-8-12.2

Sign Type	Maximum Area	Maximum Height	Maximum Number
Construction Signs	See Section 18-8-12.2a	None	1 per individual/firm
Real Estate Signs	See Section 18-8-12.2b	None	1 per street frontage
Political Campaign Signs	None	None	None
Street Banners	None	None	None
Civic/Fraternal/Charitable Event Sign	None	None	None
Signs Advertising Storage/Display of Merchandise	None	None	None
Yard Sale	8 SF	None	None
Non-commercial Signs	12 SF	4 feet	1 per residential unit
Open Business Sign	15 SF	None	1 per business
Development Banner	6 SF	None	None
Incidental Price or Advertising Sign	2 SF	None	None

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18-8-12.3

The following commercial temporary signs shall be permitted in the in the RB-1, RO-1, B-1, B-2, M-1, M-2, CM-1, and PC districts. The number of permitted signs shall be directly proportional to the amount of public street frontage for that property. If a property has multiple public street frontages, each frontage shall be included in the sign calculation. Unless otherwise provided, one (1) temporary sign may be installed per fifty (50) linear feet of public street frontage, with a maximum of four (4) temporary signs per property. Each permitted temporary sign may be up to a maximum of sixteen (16) square feet in size and four (4) feet in height unless affixed to the face of a building. For properties that do not meet the fifty (50) linear foot requirement for a temporary sign, one temporary sign meeting the aforementioned

Deleted: ~~require approval of a temporary sign permit and payment of applicable fee per Section 23-8 of this Ordinance prior to placement on a property. No more than three temporary sign permits shall be issued per property during a twelve (12) month period~~

requirements shall be permitted. If the property frontage(s) allows for multiple temporary signs, then no two temporary signs shall be located within fifty (50) feet of each other for properties fronting on a street with a speed limit of twenty-five (25) miles per hour or less, and a distance of seventy-five (75) feet for properties fronting on a street with a speed limit of greater than twenty-five (25) miles per hour,

- a. ~~Temporary banner advertising signs.~~
- b. ~~Temporary Business Identification Signs during review and approval of a permanent building-mounted or freestanding sign. Such signs must be affixed to the face of a building or an existing freestanding sign structure and be on display no longer than forty-five (45) days and are limited to one sign per business.~~
- c. ~~Portable price or advertising signs. Such signs shall be permitted to be on display a maximum of thirty (30) days, except for signs permitted in the Primary and Secondary Downtown Assessment Districts permitted under Section 18-7.~~
- d. ~~Temporary sales signs, as defined in Section 18-8-18.19 provided that no more than two (2) such signs are on display and having a height of no more than four (4) feet. Such signs shall be on display for no longer than the approved temporary event.~~
- e. ~~Regional Tourism Signs. Two signs may be placed on properties containing a regional tourism destination for the purpose of making public announcements, advertising special exhibits, events, or similar advertisements. Such signs shall be exempt from the requirements of Article 14.2, and each sign may be on display no longer than thirty (30) days and no larger than twenty-five (25) square feet. For the purposes of this section a regional tourism destination shall mean a property larger than three (3) acres that routinely provides information and/or exhibits for tourists and the general public.~~

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Deleted: Signs advertising grand openings, special sales or similar promotional events

Deleted: , shall be permitted in RB-1, B-1, B-2, M-1, M-2, CM-1, and PC districts, provided that such signs are on display for no more than ten (10) days per month. One sign may be permitted per business or tenant, and each sign shall not exceed sixteen (16) square feet in area. Such signs shall not have a height greater than four (4) feet unless affixed to a permanent building or freestanding sign structure. A temporary sign permit shall be required.

Deleted: A maximum of one (1) sign is permitted per business. The sign shall not exceed sixteen (16) square feet in area, and may be permitted to be on display for a maximum of forty-five (45) days. The maximum height for such signs shall be four (4) feet, unless the sign is attached to a building or freestanding sign pole.

Deleted: shall be permitted in the RB-1, B-1, B-2, CM-1, M-1, and M-2 districts, not exceeding an area of sixteen (16) square feet, four (4) feet in height, and limited to one (1) for each street the property fronts upon.

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Table 18-8-12.3

Temporary Banner Signs	16 SF	4 feet	See Section 18-8-12.3
Temporary Business Identification Signs	16 SF	Must be affixed to a building	1 per business
Portable Price or Advertising Signs	16 SF	4 feet	See Section 18-8-12.3
Temporary Sales Signs	16 SF	4 feet	2 per approved temporary sale event
Regional Tourism Signs	25 SF	4 feet	2

18-8-12.2 **18-8-12.4** Permanent Signs.

- a. Directional Signs, as defined, provided each sign does not exceed ten (10) square feet in area nor four (4) feet in height. No more than two (2)

signs shall be permitted within one hundred (100) feet of each other within the limits of the development except signs required by a public authority for recognized traffic management needs. For commercial centers greater than fifty thousand square feet in floor area and Higher Education (HE-1) District uses, additional directional freestanding signs not exceeding thirty (30) square feet in area and six (6) feet in height shall be permitted within off-street parking areas when such signs provide directional assistance for multiple destinations. For Medical Center (MC) District uses, additional directional freestanding signs not exceeding seventy two (72) square feet in area and ten (10) feet in height shall be permitted within off-street parking areas when such signs provide directional assistance for multiple destinations. A sign permit shall be required. Such additional signs shall be limited to a single unifying logo representative of the development and text on a solid color background and shall be oriented so as to limit primary viewing to persons already on site and not to persons traveling on public and/or private streets provided in lieu of public streets. (1/9/97, Case TA-97-11, Ord. No. 034-097; 6/9/98, TA-98-02, Ord. No 016-98; 9-9-08 Case TA-08-06, Ord. No. 2008-39)

- b. Wall or freestanding signs, not exceeding a total of fifty (50) square feet in area nor eight (8) feet in height and not internally illuminated, for the identification of a subdivision or Planned Development or one freestanding sign not exceeding fifty (50) square feet in area nor eight (8) feet in height and not internally illuminated for the identification of an apartment complex containing at least 50 apartment units and covering at least three (3) acres of ground, if located at an entrance to said subdivision, Planned Development or apartment complex. If a said apartment complex fronts upon more than one public street, then one additional freestanding identification sign not exceeding twenty-five (25) square feet in area shall be allowed at a separate entrance. (3/11/97, Case TA-96-08, Ord. No. 007-97; 9/11/01, Case No. TA-01-02, Ord. No. 029-2001)
- c. Names of buildings, dates of erection, monumental citations, commemorative tablets, and the like when carved into stone, concrete, or similar material or made of bronze, aluminum, or other permanent type construction and made an integral part of the structure.
- d. Institutional signs setting forth the name or any simple announcement for any public, charitable, educational, or religious institute, located entirely within the premises of that institution. Freestanding signs shall not exceed twenty-five (25) square feet in area.
- e. Signs painted on or hung behind windows.
- f. Menu boards shall be permitted in the B-1, B-2, CM-1, M-1, and PC districts for drive-through establishments provided such signs shall be designed and oriented so as to limit primary viewing to persons using drive through facilities and menus shall be displayed only on the drive through standing space side. (3/8/94, Case TA-93-09, Ord. No. 005-94)
- g. Community Signs, after a finding that such signs are consistent with the provisions of Sections 18-2-1.1a and b of this Ordinance. The intent of this

section is to permit a limited number of signs at the entryways to the community where multiple noncommercial messages are presented in a planned, orderly manner. Such signs shall not exceed 15 feet in height nor 150 square feet in sign area. No signs permitted under this section shall be more than 1,500 feet from the nearest exit ramp and no two signs shall be within 500 feet of each other. A sign permit shall be required. (10/8/96, Case TA-96-06, Ord. No. 026-96)

- 18-8-13 SIGNS PROHIBITED IN ALL DISTRICTS. The following types of signs are prohibited in all districts:
- 18-8-13.1 Any sign that obscures a sign display by a public authority for the purpose of giving traffic instructions or directions or other public information.
- 18-8-13.2 Any sign within the triangular area at the street corner of a corner lot described in Section 18-12 of this Ordinance.
- 18-8-13.3 Any sign that consists of strings of light bulbs or illumination devices such as LEDs.
- 18-8-13.4 Any sign or device, other than pennants or banners whether or not any such device has written message content, of which all or any part is in motion by any means, including fluttering, rotating, or other moving signs set in motion by movement of the atmosphere, including but not limited to pennants, propellers, discs, and similar devices. This shall not apply to the hand of a clock or a weather vane, flags of a national, state or local government, or signs in Section 18-8-12.2i.
- 18-8-13.5 Any sign, except official notices and advertisements, which is nailed, tacked, posted, or in any other manner attached to any utility pole or structure for supporting wire, cable, or pipe, or to any tree on any street or sidewalk or to public property of any description.
- 18-8-13.6 Outdoor advertising signs.
- 18-8-13.7 Moored balloons, inflatable signs, or other floating signs that are tethered to the ground.
- 18-8-13.8 Any sign with a minimum clearance of less than eight (8) feet above a walkway or sidewalk or less than fifteen (15) feet above a driveway or alley. (7/10/90, Case TA-90-04, Ord. No. 026-90)
- 18-8-14 ILLUMINATION.
- 18-8-14.1 The light from any illuminated sign shall not cause direct glare into or upon any building or property owner other than the building or property to which the sign may be related.
- 18-8-14.2 No sign shall display flashing or intermittent lights, or other lights of changing degrees of intensity, brightness or color, except a sign indicating time or temperature, with changes alternating on not less than five (5) second cycle when such time or temperature sign does not constitute a public hazard, in the judgment of the Zoning Administrator.
- 18-8-14.3 Neither the direct nor reflected light from primary light sources shall create a traffic hazard to operators of motor vehicles on public thoroughfares.
- 18-8-14.4 Signs for developments in the Highway Commercial, B-2 District that include multifamily units, per Section 8-2-20, shall not utilize any internal illumination.

External illumination, if any, shall be provided in a down-cast manner or shielded to prevent direct lighting of windows in multifamily units. (9/13/05, Case TA-05-02, Ord. No. 025-2005)

18-8-14.4 **Electronic Message Board Signs shall not change message with a greater frequency than once every sixty (60) seconds in order to prevent traffic hazards to operators of motor vehicles on public thoroughfares, with exception of time or temperature changes per Section 18-8-14.2.**

18-8-18 DEFINITIONS.

- 18-8-18.1 **Area of Sign**. The entire area within a circle, triangle, parallelogram, or trapezoids including the extreme limits of writing, reproduction, emblem, or any figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding the necessary supports or uprights on which such sign is placed. On double-faced signs, only one (1) display face shall be measured in computing total sign area where sign faces are parallel and are at no point more than two (2) feet from one another.
- 18-8-18.2 **Maintenance**. The replacing or repairing of a part or portion of a sign made unusable by ordinary wear, tear, or damage beyond the control of the owner or the reprinting of existing copy without changing the wording.
- 18-8-18.3 **Outdoor Advertising Sign**. A freestanding or building mounted sign bearing a message which is not appurtenant to the use of the property where the sign is located, and which does not identify the place of business where the sign is located as the purveyor of merchandise or services upon the sign, except signs permitted off-premises for Commercial Centers, as defined and except for directional signs per Section 18-8-18.11. Such signs may also be referred to as billboards or poster panels. (1/9/97, Case TA-97-11, Ord. No. 034-097)
- 18-8-18.4 **Projecting Signs**. A sign attached to and perpendicular to the building wall.
- 18-8-18.5 **Sign**. Any structure, display device, or representation which is designed or used to advertise or call attention to any thing, person, business, activity, or place and painted, printed, constructed, and displayed in any manner whatsoever out of doors for recognized advertising purposes. However, this shall not include any official court or public notices nor the flag, emblem, or insignia of a government, school, or religious group when displayed for official purposes.
- 18-8-18.6 **Temporary Sign**. A banner, ~~pennant~~, poster, or advertising display constructed of cloth, plastic sheet, cardboard, wallboard, or other like materials, intended to be displayed for a limited period of time, and not permanently attached to a building, ~~or the ground, or other structure.~~ **Only temporary signs provided in Section 18-8-12.2 may be constructed utilizing wood materials and may be securely affixed to the ground to prevent being set in motion by the atmosphere.**
- 18-8-18.7 **Wall Sign**. A sign affixed directly to or painted on or otherwise inscribed on an exterior wall or parapet and confined within the limits thereof of any building and which projects from that surface less than twelve (12) inches at all points.

- 18-8-18.8 Roof Line. Either the edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette. Where a building has several roof levels, this roof or parapet shall be the one belonging to that portion of the building on which the sign is located. (3/8/94, Case TA-93-09, Ord. No. 005-94)
- 18-8-18.9 Roof Sign. A sign erected on the roof of a building. Roof signs shall not project above the roof line. (3/8/94, Case TA-93-09, Ord. No. 005-94)
- 18-8-18.10 Community Sign. A sign identifying the community and/or recognized historic and/or cultural resources therein provided such signs are situated within or visible from major tourism corridors directly connecting from limited access highways. Signs may include uniformly sized and shaped emblems, logos, insignias or simple nameplates of any civic, fraternal, charitable or religious organization based in the community. (10/8/96, Case TA-96-06, Ord. No. 026-96)
- 18-8-18.11 Directional Sign. A wall or freestanding sign in or primarily oriented toward a parking lot to identify entrances, exits, and divisions of the lot into sections, and to control vehicular and pedestrian traffic in the lot. In cases where a property owner agrees to close an existing driveway connecting directly to a street to permit shared access per Section 18-6-3.6 of this Ordinance or where an off-premises entrance from the public street in lieu of a direct connection is recommended by a public authority, one (1) off- premises directional sign bearing the name or simple logo of the commercial activity shall be permitted at the connection to the street. (1/9/97, Case TA-97-11, Ord. No. 034-097)
- 18-8-18.12** **Inflatable Sign. A sign capable of being expanded by air or other gas and used on a temporary or permanent basis to advertise a product or event.**
- 18-8-18.13** **Monument Sign. A freestanding sign permanently installed on the property. The base of a monument sign is as wide as or wider than the main sign face. A monument sign is built on-grade in such a manner that the sign and the structure are an integral part of one another.**
- 18-8-18.14** **Electronic message board sign. A sign displaying characters or images that move or change, caused by any method other than physically removing and replacing the sign or its components. This includes a display that incorporates technology to allow the sign face to change the image, such as any display that incorporates LED lights manipulated through digital input, "digital ink" or any other method or technology that allows the sign face to present a series of images or displays.**
- 18-8-18.15** **Construction Sign. A sign depicting the name or logo of a contractor, engineer, architect, or other individual or business that is involved with a construction, renovation, or demolition project.**

- 18-8-18.16** **Real Estate Sign. A sign advertising the sale, lease, or rent of the property upon which the sign is located.**
- 18-8-18.17** **Portable Price or Advertising Sign. A sign that is not permanently affixed to the ground, building or a structure, designed to be on display for a limited period of time. Such signs include sandwich board signs, moveable chalkboard signs, and other signs of a similar nature. These signs shall not include any signs provided under Section 18-8-12.2.**
- 18-8-18.18** **Yard Sale Sign. A sign advertising a yard sale, garage sale, estate auction, or similar private sale of personal property and located upon the property where such sale is occurring.**
- 18-8-18.19** **Temporary Sales Sign. A temporary sign advertising a temporary sales event as permitted by the Administrator, such as Christmas trees, fireworks, or similar sales event placed upon the property where such event is occurring. Such signs shall not include portable signs permitted in the Primary or Secondary Assessment districts, nor events sponsored by the Old Town Development Board or City of Winchester.**
- 18-8-18.20** **Non-commercial Sign. A sign utilized for a non-commercial purpose. Such signs shall not include real estate, construction, or yard sale signs.**

Deleted: Event

SECTION 18-19. HOME OCCUPATIONS. (10/11/83, Case 83-06, Ord. No. 034-83)

- 18-19-5** A yard sale shall be considered a permitted home occupation, subject to the following:
- 18-19-5.2** Each yard sale may be held a maximum of two consecutive days, and only during the hours of 8:00 a.m. to 6:00 p.m. ~~One two (2) square foot on premises sign advertising the yard sale may be displayed during the hours of 8:00 a.m. to 6:00 p.m. on the day(s) of the sale.~~ (3/8/94, Case TA-94-01, Ord. No. 006-94)

**ARTICLE 21
VIOLATION AND PENALTY**

- 21-2-2** **The appeal period for violations of this Ordinance pertaining to the following uses shall be ten (10) days, pursuant to §15.2-2286:**
 - a. Any violation of Sections 18-8-12.1 through 18-8-12.3, pertaining to temporary signs.**
 - b. Any violation of Sections 18-9-5 through 18-9-5.4, pertaining to yard sales.**
 - c. Any violation of Section 18-12, pertaining to visual obstructions.**

- d. Any violation of Section 18-17, pertaining to mobile storage units and temporary events.

ARTICLE 14.2
CORRIDOR ENHANCEMENT DISTRICT – CE

14.2-6 AMHERST STREET, CEDAR CREEK GRADE, AND PLEASANT VALLEY RD/CORK STREET CORRIDORS

- 14.2-6.6 Signs
- 14.2-6.6a Roof mounted, portable, and temporary signs, as well as banners and pennants are prohibited, with the exception that one sign provided in Section 18-8-12.2 may be installed per property in accordance with the provisions of that Section.

14.2-7 BERRYVILLE AVENUE AND VALLEY AVENUE CORRIDORS

- 14.2-7.6 Signs
- 14.2-7.6a Roof mounted signs, banners, and pennants are prohibited, portable and temporary signs should not be used, with the exception that one sign provided in Section 18-8-12.2 may be installed per property in accordance with the provisions of that Section.

14.2-8 FAIRMONT AVENUE, MILLWOOD AVENUE, AND NORTH LOUDOUN STREET CORRIDORS

- 14.2-8.6 Signs
- 14.2-8.6a Roof mounted signs, banners, and pennants are prohibited, portable and temporary signs should not be used, with the exception that one sign provided in Section 18-8-12.2 may be installed per property in accordance with the provisions of that Section.

14.2-9 NATIONAL AVENUE CORRIDOR

- 14.2-9.6 Signs
- 14.2-9.6a Roof mounted signs, banners, and pennants are prohibited, portable and temporary signs should not be used, with the exception that one sign provided in Section 18-8-12.2 may be installed per property in accordance with the provisions of that Section.

Deleted: SECTION 23-8. FEES. (10/13/99, Case TA-99-04, Ord. No. 029-99; 10/9/02, Case TA-02-07, Ord. No. 024-2002)¶
 23-8-12 Portable and temporary sign or sign when no \$40¶ building permit is required ¶ (12/13/94, Case TA-94-10, Ord. No. 029-94) ¶ (10/8/02, Case TA-02-07, Ord. No. 024-2002)¶