

## ARTICLE 1

### DEFINITIONS

#### SECTION 1-1. GENERAL USAGE.

For the purpose of this ordinance, certain words and terms are herein defined as follows:

- 1-1-1 Words used in the present tense include the future tense; words used in the singular number include the plural number; and words in the plural number include the singular number, unless the obvious construction of the wording indicates otherwise.
- 1-1-2 The word "shall" is mandatory; "may" is permissive.
- 1-1-3 Unless otherwise specified, all distances shall be measured horizontally and at right angles to the line in relation to which the distance is specified.
- 1-1-4 The word "building" includes the word "structure"; the word "lot" includes the words "plots" and "parcel."
- 1-1-5 The word "used" shall be deemed also to include "erected," "reconstructed," altered," "placed," or "moved."
- 1-1-6 The terms "land use" and "use of land" shall be deemed also to include "building use" and "use of building."
- 1-1-7 The word "State" means the Commonwealth of Virginia.
- 1-1-8 The word "City" means the City of Winchester, Virginia.
- 1-1-9 The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

#### SECTION 1-2. DEFINITIONS.

- 1-2-1 **ACCESSORY USE:** A subordinate use customarily incidental to and located upon the same lot occupied by the main use or building. (3/11/08, Case TA-07-08, Ord. No. 2008-13)
- 1-2-1.1 **ACCESSORY STRUCTURE:** A structure that is detached from a principal structure on the same lot, customarily incidental and subordinate to the principal structure or use. Accessory structures are not permitted to be used for residential occupancy or habitation as a secondary dwelling unit, except that a subordinate dwelling unit located within an accessory structure may be occupied by members of a family as defined in subparagraph (1) of the definition of "family." Accessory structures most commonly include detached garages and garden utility sheds, but may also include detached decks, detached gazebos, greenhouses, hoopouses, cold-frame structures, and swimming pools. (3/11/08, Case

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TA-07-08, Ord. No. 2008-13; 10/12/10, Case TA-10-418, Ord. No. 2010-51; 6/14/11, Case TA-11-06, Ord. No. 2011-14)

- 1-2-2 ADMINISTRATOR, THE: The official charged with the enforcement of this zoning ordinance. He may be any appointed or elected official who is designated to the position by the City Manager. (9/11/12, Case TA-12-227, Ord. No. 2012-27)
- 1-2-3 ADULT BOOKSTORE: Any premises or part thereof from which juveniles are excluded in accordance with Article 6, Section 18.2-390 and 391 of the Code of Virginia (1950), as amended, and in which the sale of books, magazines, newspapers, movie films, video tapes, devices, slides, or other photographic or written reproductions is conducted as a principal use of the premises; or an adjunct to some other business activity, but which constitutes the primary or a major attraction to the premises. (10/12/82, Case 82-10, Ord. No. 020-82)
- 1-2-3.1 ADULT CARE RESIDENCE: *See Assisted Living Facility and Group Home.* (10/9/07 Case TA-07-02, Ord. No. 2007-41; 9/14/10, Case TA-10-333, Ord. No. 2010-38)
- 1-2-4 ADULT MINI-MOTION PICTURE THEATER: An enclosed building with a capacity for less than fifty (50) persons primarily used for exhibiting motion pictures, shows, or other presentations and which excludes juveniles in accordance with Article 6, Section 18.2-390 and 391 of the Code of Virginia (1950), as amended. (10/12/82, Case 82-10, Ord. No. 020-82)
- 1-2-5 ADULT MOTION PICTURE THEATER: An enclosed building with a capacity of fifty (50) or more persons primarily used for exhibiting motions pictures, shows, or other presentations and which excludes juveniles in accordance with Article 6, Section 18.2-390 and 391 of the Code of Virginia (1950), as amended. (10/12/82, Case 82-10, Ord. No. 020-82)
- 1-2-5.1 ALCOHOL TREATMENT CENTERS: *See Group Home.* (10/9/07 Case TA-07-02, Ord. No. 2007-41)
- 1-2-6 ALLEY: A right-of-way which provides secondary service access for vehicles to the side or rear of abutting property.
- 1-2-7 ALTERATIONS, STRUCTURAL: Any change, removal, replacement, reinforcement, or addition of beams, ceiling and floor joists, reinforced concrete floor slabs (except those on fill), load bearing partitions, columns, exterior walls, stairways, roofs, corridors, or other structural materials used in a building that supports the said beams, ceiling and floor joists, load bearing partitions, columns, exterior walls, stairways, roofs, or structural materials used in the building or structure.
- 1-2-7.1 AMPHITHEATER: A stand-alone outdoor entertainment venue with a stage area for performances which may include lighting, amplification, and accessory structures including open-air pavilions, restroom buildings, and concession operations. (7/10/12, Case TA-12-187, Ord. No. 2012-20)

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- 1-2-8 ARENA: A building over thirty (30,000) gross square feet in size used to provide entertainment, cultural, or educational events for which a charge may be imposed in the form of an entrance fee. For purposes of this Ordinance, structures primarily designed as and functioning as theaters or places of worship shall not be defined as Arenas. (7/10/12, Case TA-12-187, Ord. No. 2012-20)
- 1-2-8.1 ANIMAL SHELTER: A place used to house and/or euthanize stray, homeless, abandoned, or unwanted animals that is owned, operated, or maintained by a public body or an established humane society or society for the prevention of cruelty to animals or other non-profit entity devoted to the welfare, protection, and humane treatment of animals. (12/12/00, Case TA-00-06, Ord. No. 025-2000).
- 1-2-9 ASSEMBLY PLANT: A structure used for the fitting together of parts or components to form a complete unit.
- 1-2-9.1 ASSISTED LIVING FACILITY: As defined within §63.2-100, Code of Virginia (as amended), a residential facility for which the Department of Social Services of the Commonwealth is the licensing authority, with one or more resident counselors or other staff persons. (9/14/10, Case TA-10-333, Ord. No. 2010-38)
- 1-2-10 Repealed. (2/11/97, Case TA-96-09, Ord. No. 005-97)
- 1-2-11 BASEMENT: A story having part, but not more than one-half (1/2) of its height below highest grade. A basement shall be counted as a story for the purpose of height regulations.
- 1-2-11.1 BED & BREAKFAST HOMESTAY: An owner-occupied dwelling unit which provides one to three guest rooms and breakfast for guests of those rooms only. No food preparation or cooking shall occur in the guest rooms. (12/13/94, Case TA-94-09, Ord. No. 028-94)
- 1-2-11.2 BED & BREAKFAST INN: A building designed or occupied as the more or less temporary abiding place with four (4) to twenty (20) guest rooms for individuals who are, for compensation, lodged and served breakfast, and in which provision is not generally made for cooking in the individual room or suite. (12/13/94, Case TA-94-09, Ord. No. 028-94)
- 1-2-12 BOARDING HOUSE: A rooming house or other similar structure, excluding a hotel or bed & breakfast inn or bed & breakfast homestay, designed or intended to be used for transient residential occupancy on a room rental basis, where for compensation and by prearrangement for definite periods of time, lodging, or lodging and meals are provided by the owner or operator, who shall reside on the premises, for at least three (3) or more persons, but not exceeding nine (9) persons. (2/27/07, Case TA-06-06, Ord. No. 2007-04)
- 1-2-12.1 BREWERY: The land and buildings containing an industrial use which brews and produces ales, beers (as defined within §4.1-100, Code of Virginia, as amended), and/or similar beverages on site for sale and distribution. A brewery may not be established or operated in any residential dwelling unit. (6/12/07, Case TA-07-01, Ord. No. 2007-19)

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- 1-2-13 BUILDING: A structure having one (1) or more stories and roof, designed primarily for the shelter, support, or closure of persons, animals, or property of any kind.
- 1-2-14 BUILDING INSPECTOR: An appointed official of the City of Winchester who is responsible for certifying building inspections.
- 1-2-15 BUILDING, MAIN: A building in which is conducted the principal use of the lot on which it is situated. In any residential zone, any dwelling shall be deemed to be a main building on the lot on which the same is located if the lot is used primarily for residential purposes.
- 1-2-16 BULK STORAGE: A structure and/or structures designed for and used as storage facilities for oil, fuel oil, gas, grain, etc., usually stored in large quantities.
- 1-2-16.1 BUS TERMINALS: Land and buildings used as a relay station for the boarding of people and cargo on buses and for the transfer of people and cargo from one bus to another. The terminal may include a storage area for buses and provisions for light maintenance of buses associated with the terminal provided that all service and repair, except fueling, shall be within a building enclosed on all sides. Light maintenance may include washing, greasing, and oil changes but shall not include removal, installation or overhaul of major components including but not limited to engines and transmissions. (6/14/94, Case TA-94-06, Ord. No. 019-94)
- 1-2-17 CARPORT: Any space outside a building and contiguous thereto, wholly or partly covered by a roof, and used for the shelter of motor vehicles. An unenclosed carport is a carport with no side enclosure that is more than eighteen (18) inches in height, exclusive of screens (other than the side of the building to which the carport is contiguous).
- 1-2-18 CELLAR: The portion of a building partly underground, which has one-half (1/2) or more of its clear height below the average grade of the adjoining ground.
- 1-2-19 CIRCUIT COURT: The Circuit Court for Frederick County and the City of Winchester, Virginia.
- 1-2-20 CITY: Winchester, Virginia.
- 1-2-21 CLUB, PRIVATE: Those associations and organizations of a fraternal or social character not operated or maintained for profit, but the terms shall not include night clubs or other institutions operated as a business.
- 1-2-22 COMMERCIAL: Any wholesale, retail, or service business activity established to carry on trade for a profit.
- 1-2-23 COMMISSION, THE: The Planning Commission of the City of Winchester, Virginia.

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- 1-2-23.1 COMPREHENSIVE MEDICAL REHABILITATION SERVICES SPECIALTY HOSPITAL: A hospital or unit for the purpose of restoring to their fullest capability or gainful employment those individuals who are physically handicapped by injury or illness, except that drug and alcohol rehabilitation are not permitted. (6/12/90, Case TA-89-11, Ord. No. 018-90)
- 1-2-23.2 COMMERCIAL RECORDS CENTER: A commercial facility which provides information storage, filing, inventory management, retrieval, delivery and similar services. Information may be handled in the form of paper, microfilm, microfiche, computer based or other media. (4/12/94, Case TA-94-03, Ord. No 011-94)
- 1-2-24 COMMON OPEN SPACE: All open space within the boundaries of a planned development designed and set aside for use by all residents of the planned development or by residents of a designated portion of the planned development and not dedicated as public lands.
- 1-2-24.1 COMMUNITY CENTER, PRIVATE: A facility for noncommercial, nonresidential use by organizations, institutions and individuals providing social, cultural, recreational and human resource programs and activities. (12/14/99, Case TA-99-06, Ord. No. 033-99)
- 1-2-25 COMPREHENSIVE PLAN: The Comprehensive Plan for Winchester, Virginia, as adopted and as amended.
- 1-2-26 CONDOMINIUM: Ownership of single units in a multiple unit structure with common elements.
- 1-2-27 COURT: An open, unoccupied space, other than a yard, with a building or group of buildings which is bounded on two (2) or more sides by such building or buildings and every part of which is clear and unobstructed from its lowest point to the sky.
- 1-2-27.1 CREMATORY: A facility containing a furnace for cremation of dead human or animal remains. Such facility may also provide related goods and services for memorialization. (6/8/10, Case TA-10-111, Ord. No. 2010-19)
- 1-2-28 DAIRY: A commercial establishment for the manufacture, processing, and/or sale of dairy products.
- 1-2-28.1 Repealed. (10/22/13, Case TA-13-146, Ord. No. 2013-28)
- 1-2-28.2 DECK: The term "deck" shall include any attached projection from a main wall of a building that has railings and may or may not have access to the ground, but does not include walls and a roof. (11/12/02, Case TA-02-08, Ord. No. 028-2002)
- 1-2-29 DISTRICT: A portion of the territory of the City of Winchester in which certain uniform regulations and requirements or various combinations thereof apply under the provisions of the adopted Zoning Ordinance.

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- 1-2-29.1 DONATION DROP-OFF BOX: Any container, storage unit or unoccupied structure, used for the holding of charitable or donated items by the general public, including, but not limited to, clothing, toys, books, and newspapers, with the collections of donated items made at a later date or time. This term shall not include recycling collection centers. (1/8/13, Case TA-12-473, Ord. No. 2012-36)
- 1-2-29.2 DRUG TREATMENT CENTERS: *See Group Home.* (10/9/07, Case TA-07-02, Ord. No. 2007-41)
- 1-2-30 DWELLING: Any structure which is designed for use for residential purposes, except hotels, bed & breakfast inns, boarding houses, lodging houses, tourist cabins, motels, and campers. (1/9/01, Case TA-00-09, Ord. No. 002-2001)
- 1-2-31 DWELLING UNIT: One (1) or more rooms in dwelling designed for living or sleeping purposes, and having only one (1) kitchen. Notwithstanding any other provisions of this Ordinance, not more than 12 people may live in or occupy any dwelling unit. (2/11/97, Case TA-96-09, Ord. No. 005-97)
- 1-2-32 DWELLING, MULTIPLE FAMILY: A structure arranged or designed to be occupied by three (3) or more families, the structure having three (3) or more dwelling units.
- 1-2-33 DWELLING, TWO FAMILY: A structure arranged or designed to be occupied by two (2) families, the structure having only two (2) dwelling units.
- 1-2-33.1 DWELLING, ACCESSORY TWO FAMILY: A Two Family Dwelling wherein one of the two dwelling units is owner-occupied and one of the two dwelling units is designed to be accessory or subordinate to the other dwelling unit. The accessory dwelling unit shall not contain more than two bedrooms, shall not exceed more than forty percent (40%) of the total dwelling floor area, and shall not have an external building entrance facing toward the same public street frontage as the other dwelling unit unless established as a conversion of an existing single-family dwelling at least twenty (20) years old where more than one such entrance already exists. (1/12/10, Case TA-09-323, Ord. No. 2009-39)
- 1-2-34 DWELLING, SINGLE FAMILY: A structure arranged or designed to be occupied by one (1) family, the structure having only one (1) dwelling unit.
- 1-2-34.1 EMPLOYEE, DOMESTIC: A person hired by a household to perform general household services such as nanny, baby-sitting, cooking, cleaning, laundering, gardening, yard and maintenance work, care-giving and other duties commonly associated with the meaning of domestic servant. (6/14/11, Case TA-11-06, Ord. No. 2011-14)
- 1-2-35 EQUIPMENT PENTHOUSE: A structure on the roof of a building containing necessary mechanical equipment, elevator equipment, and/or stairways.

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- 1-2-35.1 EXTENDED STAY LODGING: One (1) or more buildings containing individual sleeping rooms, designed for and used primarily by business travelers for more than thirty (30) consecutive days, with garage or parking space conveniently located to each unit. Cooking facilities are provided for each unit. Units are not intended to be primary residences. (8/12/03, Case TA-03-01, Ord. No. 031-2003)
- 1-2-36 FAMILY: Any of the following groups conforming to the limitations outlined in Section 18-4, Occupancy of Dwelling Units, living and cooking together as a single housekeeping unit.
1. One or more persons related by blood, marriage, legal guardianship or adoption, including foster children, as verified by official public records such as motor vehicle operator's licenses, birth certificate or marriage certificates; or by affidavits. The Zoning Administrator may require an affidavit in this regard and may reject any such evidence not in the form of an affidavit; or
  2. Not more than four unrelated persons or a combination of related and unrelated persons; or
  3. Two unrelated adults and any children related to either one or both adults by blood, marriage, legal guardianship or adoption, including foster children; or
  4. Not more than eight (8) unrelated persons who are:
    - a. Residents of a group home as defined within §15.2-2291, Code of Virginia (as amended), occupying a single family dwelling unit or other residential facility for which the Department of Mental Health, Mental Retardation, and Substance Abuse services of the Commonwealth is the licensing authority; or
    - b. "Handicapped" as defined within the Federal Fair Housing Act, 42 USC 3602(h), and/or "Disabled" as defined within the Americans with Disabilities Act of 1990, 42 USC 12101, et seq. These definitions do not include current illegal use of or addiction to a "controlled substance" as defined in the Controlled Substances Act, 21 USC 802(6) or §54.1-3401, Code of Virginia (as amended). (10/9/07 Case TA-07-02, Ord. No. 2007-41)
    - c. Residents of an assisted living facility as defined within §15.2-2291, Code of Virginia (as amended), occupying a single family dwelling unit or other residential facility for which the Department of Social Services of the Commonwealth is the licensing authority. (9/14/10, Case TA-10-333, Ord. No. 2010-38)

Subject to the limitations in Section 18-4, the following shall not be included in the number of persons who might comprise a family: up to two (overall) persons who may be domestic employees (or one domestic employee and one minor child of the domestic employee), live-in companions to the elderly or disabled, or "au-pair" employees (except for families described under subparagraph (2), definition of "family"). Any one claiming a domestic employee, live-in companion to the elderly or disabled, or "au-pair" employee status for an occupant or for one's self must first verify to the zoning administrator the

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existence of a bona fide employment relationship by a copy of a record, such as an employment contract, a federal i-9 form, a tax return, or an affidavit. (6/14/11, Case TA-11-06, Ord. No. 2011-14)

- 1-2-37 FAMILY CARE HOME: *See Group Home.* (10/9/07 Case TA-07-02, Ord. No. 2007-41)
- 1-2-37.1 FAMILY DAY HOME: means a child day program offered in the residence of the provider or the home of any of the children in care for one through 12 children under the age of 13, exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation. (9/14/10, Case TA-10-337, Ord. No. 2010-40)
- 1-2-38 FLOOD PLAIN: Continuous sections of land, adjacent to bodies of water, which are subject to periodic flooding and inundation.
- 1-2-39 FLOOR AREA: The sum of the gross horizontal areas of the several floors of the building or buildings on a lot, measured from the exterior faces of exterior walls or from the center line of party walls separating two (2) buildings.
- 1-2-40 DELETED. (8/13/02, Case TA-02-06, Ord. No. 021-2002)
- 1-2-41 GARAGE, PRIVATE: Accessory building designed or used for the storage of private automobiles owned and used by the occupants of the building to which it is accessory.
- 1-2-42 GARAGE, PARKING: A building or portion thereof, other than a private garage, designed or used for storing of motor vehicles.
- 1-2-42.1 GARDEN, COMMUNITY: means an area of land managed and maintained by a group of individuals to grow and harvest food crops and/or non-food, ornamental crops, such as flowers, for personal or group use, consumption or donation. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members. (10/12/10, Case TA-10-418, Ord. No. 2010-51)
- 1-2-42.2 GARDEN, MARKET: means an area of land managed and maintained by an individual or group of individuals to grow and harvest food crops and/or non-food, ornamental crops, such as flowers, to be sold for profit. (10/12/10, Case TA-10-418, Ord. No. 2010-51)
- 1-2-43 GOLF COURSE: Any golf course, publicly or privately owned, on which the game of golf is played, including accessory uses and buildings customary thereto, but excluding golf driving ranges as defined herein.
- 1-2-44 GOLF DRIVING RANGE: A limited area on which golf players do not walk, but onto which they drive golf balls from a central driving tee.
- 1-2-45 GOVERNING BODY: The Common Council of the City of Winchester.

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- 1-2-46 GROUP HOME: As defined within §15.2-2291, Code of Virginia (as amended), a residential facility for which the Department of Mental Health, Mental Retardation, and Substance Abuse services of the Commonwealth is the licensing authority; and, in which no more than eight (8) mentally ill, mentally retarded or developmentally disabled persons reside, with one or more resident counselors or other staff persons, as residential occupancy by a single family. Mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined within §54.1-3401, Code of Virginia (as amended). (10/9/07 Case TA-07-02, Ord. No. 2007-41)
- 1-2-46.1 HALFWAY HOUSE: A residential facility for persons on release from more restrictive custodial confinement where supervision, rehabilitation and counseling are provided to mainstream residents back into society thus enabling them to live independently. (2/11/97, Case TA-96-09, Ord. No. 005-97)
- 1-2-47 HEALTH OFFICIAL: The legally designated health authority of the Department of Health, Commonwealth of Virginia, for the City of Winchester or his authorized representative.
- 1-2-48 HEIGHT: The vertical distance measured from the adjoining curb grade to the highest point of the roof surface, if a flat roof; to the decline of a mansard; and to the mean height level between eaves and ridge for a gable, hip, or gambrel roof. Where buildings are set back from the street line, the height of the building shall be measured from the average elevation of the finished grade along the front of the building.
- 1-2-48.1 HOOKAH ESTABLISHMENT: Means any establishment, facility, or location whose business operation, whether as its primary use or as an ancillary use, is devoted to the on-premises smoking of tobacco or other legal, non-hallucinogenic, non-psychoactive or psychotropic substances through one or more pipes (commonly known as a hookah, waterpipe, shisha or narghile) designed with a tube passing through an urn of water that cools the smoke as it is drawn through it, including but not limited to establishments known variously as hookah bars, hookah lounges, or hookah cafes. (2/8/11, Case TA-10-639, Ord. No. 2010-73)
- 1-2-49 HOSPITAL, GENERAL: An institution rendering medical, surgical, obstetrical, or convalescent care, including nursing homes, homes for the aged, and sanatoriums, but in all cases excluding institutions primarily for mental or feebleminded patients, epileptics, alcoholics, or drug addicts. (Certain nursing homes and homes for the aged may be "home occupation" if they comply with the definitions herein.)
- 1-2-50 HOSPITAL, SPECIAL CARE: An institution rendering care primarily for mental or feebleminded patients, epileptics, alcoholics, or drug addicts.
- 1-2-51 HOTEL: A building designed and occupied as the temporary abiding place for fourteen (14) or more individuals who are, for compensation, lodged, for a maximum of thirty (30) consecutive days, with or without meals, and in which provision is not generally made for cooking in the individual rooms or suites. No more than 10 % of the total number of units may be occupied by individuals that exceed the 30 consecutive day maximum occupancy

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limit up to a maximum of nine (9) consecutive months. (8/12/03, Case TA-03-01, Ord. No. 031-2003)

- 1-2-51.1 HOUSING FOR THE ELDERLY AND PHYSICALLY HANDICAPPED: Housing in which occupants must be sixty-two (62) years of age or older; or, if physically handicapped, must be fifty-five (55) years of age or older and able to live independently. (3/14/89, Case TA-88-08, Ord. No. 008-89)
- 1-2-52 INSTITUTIONS OF HIGHER EDUCATION: Any institutions accredited by the State Department of Education and/or authorized by the State Council of Higher Education to award degrees; and including all uses customarily associated with an institution of higher education such as dormitories, classroom buildings, athletic fields, libraries, etc.
- 1-2-52.1 INOPERABLE MOTOR VEHICLE: Any motor vehicle, trailer or semi-trailer as defined in §46.2-100 of the Code of Virginia (as amended), which is not in operating condition, or any vehicle which has been partially or totally disassembled by the removal of tires and wheels, the engine or other essential parts required for operation of the vehicle for a period of sixty (60) days or longer or on which there are displayed neither valid license plates, nor a valid inspection decal. (2/12/08, Case TA-07-07, Ord. No. 2008-10)
- 1-2-53 KENNEL: A place prepared to house, board, breed, handle, or otherwise keep or care for dogs and cats for sale or in return for compensation.
- 1-2-54 LIMITED INDUSTRY: Includes warehousing and light manufacturing uses which produce some noise, traffic congestion, or danger, but which are of such limited scale or character that they present no serious hazard to neighboring properties from fire, smoke, noise, or odors. Examples are lumberyards, warehouses, research laboratories, auto repair shops, bakeries, bottling plants, electronic plants, storage of farm implements, contractors' storage yards, steel or metal fabrication.
- 1-2-55 LODGE, PRIVATE: Those associations and organizations of a fraternal or social character not operated or maintained for profit, but the terms shall not include night clubs or other institutions operated as a business.
- 1-2-56 LOT: A parcel of land occupied or to be occupied by one or more buildings and accessory structures, either shown on a plat of record or considered as a unit of property and described by metes and bounds separate from a platted right of way. (8/13/02, Case TA-02-06, Ord. No. 021-2002)
- 1-2-57 LOT, CORNER: A lot abutting on two (2) or more streets at their intersection. For corner lots with only two (2) sides abutting a street, the corner side line, shall be deemed to be the longer of the two (2) sides fronting on streets. (8/13/02, Case TA-02-06, Ord. No. 021-2002)

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- 1-2-57.1 LOT, MULTI-CORNER: A corner lot with at least three street frontages. Where there are three uninterrupted street frontages, the lot line connecting the two street corners shall define front and corner side lot lines. If this line is shorter than both of the lot lines it intersects, then it shall be defined as a front lot line and the other two shall be defined as corner side lot lines. If it is longer than either of the other two lot lines, then it shall be defined as a corner side lot line and the other two shall be defined as front lot lines. For Multi-Corner Lots having other than three uninterrupted street frontages, the Administrator shall determine the designation of front and corner side lot lines based upon the orientation of these lines on adjacent lots. Limited access highways as defined by the Virginia Department of Transportation shall not be considered streets for the purposes of determining if a lot has multiple frontages. (8/13/02, Case TA-02-06, Ord. No. 021-2002; 9/13/05, Case TA-05-04, Ord. No. 027-2005)
- 1-2-58 LOT, DEPTH OF: The average horizontal distance between the front and rear lot lines.
- 1-2-59 LOT, MULTI FRONTAGE INTERIOR: An interior lot having frontage on two (2) or more streets, each defining a front yard. Limited access highways as defined by the Virginia Department of Transportation shall not be considered streets for the purpose of determining if a lot has multiple frontages. (7/8/97, Case TA-97-04, Ord. No. 015-97; 8/13/02, Case TA-02-06, Ord. No. 021-2002)
- 1-2-60 LOT, INTERIOR: Any lot other than a corner lot.
- 1-2-61 LOT, WIDTH OF: The horizontal distance between side lot lines at the setback line.
- 1-2-62 LOT OF RECORD: A lot, a plat, or description of which has been recorded in the Clerk's office of the Circuit Court.
- 1-2-63 MANUFACTURE AND/OR MANUFACTURING: The processing and/or converting of raw, unfinished materials or products, or both of them, into articles or substances of different character or for use for a different purpose.
- 1-2-64 MARQUEE: A roof-like structure or awning projecting over an entrance, as to a theater.
- 1-2-65 MINI-WAREHOUSE/MINI-STORAGE: A building or group of buildings that contain varying sizes of individual, compartmentalized, and controlled stalls or lockers for the storage of a customer's goods or wares. (5/16/78; 9/10/91, Case TA-91-02, Ord. No. 037-91)
- 1-2-66 MOBILE HOME LOT: Any area or tract of land used by or designed to accommodate one (1) mobile home.
- 1-2-67 MOTEL: One (1) or more buildings containing individual sleeping rooms, designed for and used temporarily by tourists or transients for a maximum of thirty (30) consecutive days, with garage or parking space conveniently located to each unit. Cooking facilities may be provided for each unit. No more than 10 % of the total number of units may be occupied by individuals that exceed the 30 consecutive day maximum occupancy limit up to a maximum of nine (9) consecutive months. (8/12/03, Case TA-03-01, Ord. No. 031-2003)

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- 1-2-67.1 MUSEUM OR ART GALLERY: An organized and permanent nonprofit institution, open to the public, which is essentially educational or aesthetic in purpose, with professional staff, and which is devoted to the procurement, care, study, and display of objects of lasting interest or value. (05/12/98, TA-98-01, Ord. No. 013-98)
- 1-2-68 NEIGHBORHOOD CONVENIENCE ESTABLISHMENT: An establishment with a floor area of four thousand (4,000) square feet or less, which offers general services or merchandise for sale or rent to the people of the area for their day-to-day needs. (12/9/80, Ord. No. 022-80; 1/8/04, Case TA-04-02, Ord. No. 023-2004)
- 1-2-68.1 Repealed. (10/22/13, Case TA-13-146, Ord. No. 2013-28)
- 1-2-69 NONCONFORMING ACTIVITY: The otherwise legal use of a building or structure or of a tract of land that does not conform to the use regulations of this ordinance for the districts in which it is located.
- 1-2-70 NONCONFORMING LOT: An otherwise legally platted lot that does not conform to the minimum area or width requirements of the ordinance for the district in which it is located.
- 1-2-71 NONCONFORMING STRUCTURE: An otherwise legal building or structure that does not conform to the lot area, yard, height, lot, coverage, or other area regulations of this ordinance, or is designed or intended for a use that does not conform to the use regulations of this ordinance for the district in which it is located.
- 1-2-72 NURSING HOME: A place devoted primarily to the maintenance and operation of facilities for the treatment and care of any person suffering from illnesses, diseases, deformities, or injuries, nor requiring extensive and/or intensive care that is normally provided in a general hospital or other specialized hospital.
- 1-2-73 PARKING LOT: An open, unoccupied space used or required for use for parking of automobiles or other private vehicles exclusively and in which no gas or automobile accessories are sold or no other business is conducted.
- 1-2-73.1 PATIO: An unenclosed platform, no less than three (3) feet in width, having a height up to eighteen (18) inches measured from the lowest point of grade at the platform perimeter to the floor of the platform. A patio may not have attached railings, planters, trellises, attached seats or other features that extent skyward greater than twelve (12) inches above the platform. Patios may be freestanding or attached to a dwelling and are intended for use as an outdoor living area. (11/12/02, Case TA-02-08, Ord. No. 028-2002)
- 1-2-73.2 PET DAYCARE CENTER: An establishment that provides daily care, supervision, and grooming of up to fifty (50) animals at any one time; and, which does not provide for overnight accommodation of animals, as would otherwise be associated with a *kennel* or *animal shelter*. (8/12/08, Case TA-08-04, Ord. No. 2008-33)

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- 1-2-74 PHARMACEUTICAL CENTERS: An establishment in which only pharmaceutical services are provided. Its purpose shall be limited to providing the public and various health professionals with information and articles intended for the use in diagnosis, cure, mitigation, treatment, or prevention of a disease state, including drugs and medical instruments or devices of the type used under the strict supervision of a physician in the treatment of a specific disease entity. No articles shall be displayed for sale, except for those articles directly related to the diagnosis, cure, mitigation, treatment, or prevention of a disease. Articles displayed for sale and product advertisements shall not be visible from outside the building. (8/9/77; 8/16/02, Case TA-02-05, Ord. No. 014-2002)
- 1-2-75 PORCH: The term "porch" shall include any porch, veranda, gallery, terrace, or similar projection from a main wall of a building and covered by a roof other than a carport as defined in this article. An "unenclosed porch" is a porch with no side enclosure (other than the side of the building to which the porch is attached) that is more than eighteen (18) inches in height, exclusive of screens.
- 1-2-75.1 PRESERVED CIVIL WAR BATTLEFIELD SITE: A site, identified as a civil war battlefield site by the National Park Service, Virginia Department of Historic Resources, or comparable agency, owned by an organized and permanent non-profit entity or public agency, and on which may be located offices, museums, visitor centers, and/or other improvements related to the interpretation of the site and the accommodation of visitors to the site. Such site may also be used for open space, wildlife habitat, and agricultural purposes to include equestrian boarding facilities, but to exclude confined animal feeding operations as defined in Section [62.1-44.17.1](#), Code of Virginia. (8/16/02, Case TA-01-08, Ord. No. 047-2001)
- 1-2-76 PROFESSIONAL OFFICE: The office, studio, or professional room of a doctor, architect, artist, musician, lawyer, or similar professional person, except in any funeral home, or any establishment where goods are offered for sale.
- 1-2-76.1 PSYCHIATRIC SPECIALTY HOSPITAL: A hospital or unit under the direction of a psychiatrist engaging in the diagnosis and treatment of persons suffering from mental illness. Mental illness is defined as any moderate to severe disturbance of emotion, behavior or thinking. (6/12/90, Case TA-89-11, Ord. No. 018-90)
- 1-2-76.2 PROTECTED POPULATION RESIDENCE : *See Group Home.* (10/9/07, Case TA-07-02, Ord. No. 2007-41)
- 1-2-77 RECREATIONAL VEHICLE: Any towed or motorized mobile unit designed, used or intended to be used for recreational purposes, including temporary human occupancy or recreational use. This definition includes travel trailers, pickup campers, motorized trailers, jet skis, snowmobiles, all terrain vehicles, motorized dwellings, tent trailers, boats, boat trailers, houseboats, and the like, and cases or boxes used for the transportation of such recreational equipment, whether occupied by such equipment or not. (5/13/08, Case TA-07-06, Ord. No. 2008-24)

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- 1-2-78      REQUIRED OPEN SPACE: Any space required in any front, side, or rear yard.
- 1-2-79      RESTAURANT: 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. (10/22/13, Case TA-13-146, Ord. No. 2013-28)
- 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. (10/22/13, Case TA-13-146, Ord. No. 2013-28)
- 1-2-80      REST HOME, CONVALESCENT HOME: Any place containing beds for two (2) or more patients, established to render domiciliary care for chronic or convalescent patients, but not including child care homes or facilities for the cure of feeble-minded, mental, epileptic, alcoholic patients, or drug addict.
- 1-2-81      RETAIL STORES AND BUSINESSES: Buildings for display and sale of merchandise at retail, but specifically exclusive of coal, wood, and lumber yards.
- 1-2-82      ROOMING HOUSE: See *Boarding House*. (2/27/07, Case TA-06-06, Ord. No. 2007-04)
- 1-2-83      SAWMILL: A sawmill located on public or private property for the processing of timber.
- 1-2-84      SCRAP YARD: Any land or building used for the abandonment, storage, keeping, collection, or bailing of paper, rags, scrap metals, other scrap, or discarded materials, or for the abandonment, demolition, dismantling, storage, or salvaging of automobiles, or other vehicles not in running condition, or parts thereof.
- 1-2-85      SERVICE STATION: An area of land, including structures thereof, or any building or part thereof that is used solely for the retail sale and direct delivery of fuel, lubricating oil, and minor accessories for such vehicles and the sale of cigarettes, candy, soft drinks, and other related items for the convenience of the motoring public, which establishment may or may not include facilities for lubricating, washing, minor repairs, or otherwise servicing motor vehicles, but not including auto body work, welding, painting, or major repair work. (10/11/83, Case 83-06, Ord. No. 034-83)

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- 1-2-86 SETBACK: The minimum distance by which any main building or structure must be separated from the front lot line; except that no main building need be set back more than the average setback of the adjacent main buildings on each side. This shall be known as the "setback line." If, on one side, there is no main building on the same lot or adjacent lot, the required setback shall be averaged with the setback of the adjacent main building on the other side. If either adjacent main building is not in compliance with the applicable setback requirements, and has not received a special exception therefor, or is not a nonconforming main building by reason of inadequacy of setback, the average setback exception shall not apply. (3/8/94, Case TA-93-08, Ord. No. 004-94)
- 1-2-86.1 COMMERCIAL CENTER: A grouping of commercial enterprises offering a range of retail goods, services and offices with an aggregate of ten thousand square feet or more gross floor area which has two or more of the following characteristics: (a) is designed as a single commercial group, whether or not located on the same lot; (b) is under one common ownership or management, or has one common arrangement for the maintenance of the grounds; (c) is connected by party walls, partitions, covered canopies, or other structural members to form one continuous structure; (d) shares a common parking area; (e) otherwise presents the appearance of one continuous commercial area. (3/08/94, Case TA-93-09, Ord. No. 005-94; 11/12/96, Case TA-95-09, Ord. No. 030-96)
- 1-2-86.2 SHORT-TERM LOAN ESTABLISHMENT: a business engaged in providing short-term loans of money of an original term of less than 31 days, with or without security given by the borrower or with or without a co-maker, guarantor, endorser or surety, to members of the general public as an element of its operation and which is not a bank or a savings and loan association. Short-term loan establishments shall include businesses offering what is, or is marketed as, payday loans, signature loans, title (to vehicles, boats or other personal property, but not real estate) loans, cash advances, check-cashing loans, small loans and other similar loans; but, does not include pawnshops. (4/3/10, Case TA-10-21, Ord. No. 2010-06)
- 1-2-86.3 STADIUM: A structure designed for sporting events, outdoor recreation, concerts, exhibitions, and/or convocations which includes fixed seating for more than three hundred (300) spectators. For purposes of this Ordinance, such facilities which include fixed seating for up to three hundred (300) spectators shall not be defined as Stadiums. (7/10/12, Case TA-12-187, Ord. No. 2012-20)
- 1-2-87 STORY: That portion of a building, other than the cellar, included between the surface of any floor and the surface of the floor next above it. If there be no floor above it, the space between the floor and the ceiling next above it.
- 1-2-88 STORY, HALF: A space under a sloping roof, which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished for use.
- 1-2-89 STREET, ROAD: A public thoroughfare.

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- 1-2-90 STREET LINE: The dividing line between a street or road right-of-way and the contiguous lot. (8/13/02, Case 02-06, Ord. No. 021-2002)
- 1-2-91 STRUCTURE: Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground, except utility poles.
- 1-2-91.1 TOTAL PROJECT AREA: All land within the exterior boundaries of the tract on which a multifamily or townhouse development is located, including private lots, off-street parking areas, and common open space. It shall not include private streets, provided in lieu of public streets, streets to be dedicated to the public, and land in any 100-year flood plain. Land having a slope in excess of twenty percent (20%) shall count fifty percent (50%) toward the Total Project Area. (9/12/89, Case TA-89-01, Ord. No. 022-89)
- 1-2-92 TOWNHOUSE: A single family dwelling unit being one (1) of a group of not less than two (2) nor more than eight (8) units, with such units attached to the adjacent dwelling or dwellings by party walls with lots, utilities, and other improvements being designed to permit individual and separate ownership of such lots and dwelling units. (1/10/89 Case TA-88-13 Ord. No. 001-89)
- 1-2-93 TOURIST HOME: See *Boarding House*. (2/27/07, Case TA-06-06, Ord. No. 2007-04)
- 1-2-93.1 TRANSIENT: Any person who, for any period of not more than thirty (30) consecutive days, either at his own expense or at the expense of another, obtains lodging or the use of any space in any motel or boarding house as hereinabove defined, for which lodging or use of space, a charge is made. (2/27/07, Case TA-06-06, Ord. No. 2007-04)
- 1-2-94 TRAVEL TRAILER: A vehicular, portable structure designed in accordance with U.S.A. Standards for Travel Trailers (A119-2) currently in use or as may be amended by the U.S.A. Committee on Mobile Homes and Travel Trailers. Its primary function shall be the provisions of temporary dwelling or sleeping quarters during travel, recreation, or vacation uses; its design and type shall be clearly identified by manufacturer by visible identification seal or plate of permanent nature as a travel trailer; and its specification for transporting over the streets and highways of Winchester shall be in accordance with the Code of Virginia for Motor Vehicles (1950, as amended) with a maximum width of eight (8) feet and a maximum length of thirty-five (35) feet.
- 1-2-94.1 UNIT, SINGLE HOUSEKEEPING: Two or more persons, whether or not related by blood, marriage, or legal adoption, residing together in a dwelling unit, who:
- a. share a common lease, or rental agreement that also provides for a period of tenancy common to all occupants; and
  - b. exercise a common right to use and enjoy the entire dwelling unit, despite informal arrangements among occupants to designate certain areas as individualized sleeping spaces; and

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- c. remit a single periodic rent payment to the owner or owner's agent. Additionally, the sharing of household living arrangements, including but not limited to, utility payments, groceries and common sanitary, living and cooking supplies and or facilities shall also be used in the determination by the Zoning Administrator that a dwelling unit is being used and occupied as a "single housekeeping unit." (10/9/07 Case TA-07-02, Ord. No. 2007-41)
  
- 1-2-94.2 WELLNESS & FITNESS CENTER: A facility which consists of physical fitness and therapy, wellness services, and related educational and/or informational programs, and sports medicine as the primary components of healthcare services provided. (1/11/11, Case TA-10-473, Ord. No. 2010-63)
  
- 1-2-95 YARD: An open space on a lot other than a court unoccupied and unobstructed from the ground upward by structures except as otherwise provided herein.
  
- 1-2-95.1 YARD, CORNER SIDE: A yard between the corner side line (as defined for Corner Lots) and the closest point or plane of the main building (excluding steps) and extending from the front yard to the rear lot line. For multi-corner lots with two front yards, the corner side yard shall extend between the two front yards. (8/13/02, Case TA-02-06, Ord. No. 021-2002)
  
- 1-2-96 YARD, FRONT: A yard between the closest plane or point of the building (excluding steps) and the front lot line, and extending across the full width of the lot, parallel or concentric to the street line. (8/13/02, Case TA-02-06, Ord. No. 021-2002)
  
- 1-2-97 YARD, REAR: A yard, opposite of a front yard, between the closest point or plane of the main building (excluding steps) and the rear line of the lot and extending the full width of the lot, parallel or concentric to the rear property line except on corner lots where the rear yard shall extend to the corner side yard. (8/13/02, Case TA-02-06, Ord. No. 021-2002)
  
- 1-2-97.1 YARD SALE: A home occupation use of the premises of a residential dwelling for general sales open to the public, with the purpose of disposing of personal, family, or household goods or articles. The term yard sale includes but is not limited to, activities known as yard sales, garage sales, carport sales, porch sales, backyard sales, and moving sales.

The term yard sales shall not mean or include the following:

- a. A sale of personal property pursuant to the order of a court of competent jurisdiction.
- b. A sale of personal property by a public official in his official capacity.
- c. Any sale or advertisement for sale of an item or items of personal property which are specifically named or described in the advertisement and which separate items do not exceed five in number.

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- d. A sale by auction of the property of the owner or resident of the property on which the sale is held.

1-2-98 YARD, SIDE: A yard between the front and rear yard. (8/13/02, Case TA-02-06, Ord. No. 021-2002)

1-2-99 YOUTH ACTIVITY CENTER: A property devoted to providing services and facilities for youth and students up to 20 years of age. Such facilities and services may include, but are not necessarily limited to, recreational facilities such as pool, billiard, and/or ping pong tables and video arcades; gymnasiums and exercise rooms; food services; dance floors; auditoriums for occasional movies and live performances; meeting rooms and offices for organizations providing services to youth; nonresidential substance abuse treatment and education programs; and nonresidential care, education and rehabilitation programs for handicapped and disabled persons. (11/12/91, Case TA-91-03, Ord. No. 046-91; 8/16/02, Case TA-01-07, Ord. No. 036-2001)