

ARTICLE 18

GENERAL PROVISIONS

SECTION 18-1. CERTIFICATE OF OCCUPANCY.

- 18-1-1.1 If a proposed use is in conformity with the provisions of this Ordinance, a Certificate of Occupancy shall be issued by the Zoning Administrator. Pending the issuance of this certificate, a temporary Certificate of Occupancy may be issued. Such temporary certificate shall not be construed as in any way altering the respective rights, duties, or obligations of the owner or the City relating to the use or occupancy of the land or building or any other matter covered by this Ordinance. Application for a Certificate of Occupancy shall be made to the Zoning Administrator. A Certificate of Occupancy issued under this section does not indicate compliance with any City codes or Ordinance other than the Zoning Ordinance. (10/11/83, Case 83-06, Ord. No. 034-83)
- 18-1-1.2 Written application for a Certificate of Occupancy for the use of vacant land or for a change in the use of land or a building, for a change of a nonconforming use, for the enlargement of a use for the continuation of a use as provided in Section one (1) of this Article, shall be made to the Zoning Administrator. If the proposed use is in conformity with the provisions of this Ordinance, and of all other applicable laws and ordinances, as certified to the Zoning Administrator by the officers, bodies, or agencies responsible for the administration thereof, the Certificate of Occupancy shall be issued within five (5) working days after the application for the same has been made.
- 18-1-1.3 Prior to the initiation of an application for a Certificate of Occupancy or for any other action as outlined in §15.2-2286(B), Code of Virginia, 1950, et seq., the applicant shall produce satisfactory evidence that any delinquent real estate taxes owed to the City of Winchester which have been properly assessed against the subject property have been paid. (9/8/09, Case TA-09-87, Ord. No. 2009-25)
- 18-1-2 WHEN REQUIRED.
- 18-1-2.1 A Certificate of Occupancy shall be obtained from the Zoning Administrator for any of the following:
- a. Occupancy and use of a building hereafter erected.
 - b. Change in the use of an existing building.
 - c. Occupancy and use of vacant land, except for any agricultural use.
 - d. Change in the use of land, except for any agricultural use.
 - e. Any change in the use of a nonconforming use.

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- f. Enlargement of any use with respect to the unit of measurement specified in this chapter as the basis for determining the amount of required automobile parking space, whether the same is specified in terms of floor area, dwelling units, seats, or any other element of size of the use.
- 18-1-2.2 No such occupancy, use, or change or enlargement of use shall take place until a Certificate of Occupancy therefore has been issued by the Zoning Administrator.
- 18-1-3 NOT TO PERMIT VIOLATIONS OF LAW. No Certificate of Occupancy shall be deemed to validate any violation of any provision of any law or ordinance.
- 18-1-4 EFFECT. A Certificate of Occupancy shall be deemed to authorize, and is required for, both initial and continued occupancy and use of the building or land to which it applies and shall continue in effect so long as such building and the use thereof or of such land is in full conformity with the provisions of this Ordinance and any requirements made pursuant thereto. A Certificate of Occupancy for a Business or Home Occupation may be denied, suspended, or revoked by the Zoning Administrator where an applicant fails to produce satisfactory evidence that all delinquent business, personal property, meals, transient occupancy and admissions taxes owed by the business to the City have been paid, or it is otherwise determined that such taxes have not been paid. On the serving of notice of any violation of any of such provisions or requirements with respect to any building, or the use thereof or of land, the Certificate of Occupancy for such use shall thereupon become null and void and a new certificate shall be required for any further use of such building or land. (9/8/09, Case TA-09-87, Ord. No. 2009-25)
- 18-1-5 FOR BUILDINGS OR LAND WHEN REGULATIONS CHANGE. On written request by the owner, the Zoning Administrator shall issue a Certificate of Occupancy for any use of a building or of land existing at the time of the adoption of this Ordinance or at the time of the adoption of any amendments of this Ordinance changing the regulations applying to such building or land, certifying, after inspection and investigation, the extent and kind of such use and whether the same conforms to the provisions of this chapter for the district in which it is situated or is a nonconforming use. The Zoning Administrator may require such proof as may be necessary to enable him to make a determination in the matter, and the furnishings of such proof shall be a condition of his acting on the request.

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SECTION 18-2. **CONDITIONAL USE PERMIT.** (10/11/83, Case 83-06, Ord. No. 034-83)

18-2-1 CONDITIONAL USE PERMIT.

18-2-1.1 Conditional use permits may be granted by the City Council for any of the uses for which a permit is required by the provisions of this Ordinance. In granting any such use permit, the City Council may impose any such conditions in connection therewith as will assure that it will conform with the requirements contained herein and will continue to do so, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. A conditional use permit shall not be issued unless the City Council shall find that:

- a. The proposal as submitted or as modified will not affect adversely the health, safety, or welfare of persons residing or working in the neighborhood of the proposed use; and will not be detrimental to public welfare or injurious to the property or improvements in the neighborhood. Among matters to be considered in this connection are traffic congestion, noise, lights, dust, odor, fumes, and vibration, with due regard for timing of operation, screening, and other matters which might be regulated to mitigate adverse impact.
- b. The proposal as submitted or modified will conform to the Comprehensive Plan, or to specific elements of such plan, and the official policies adopted in relation thereto, including the purposes and the expressed intent of this Ordinance.

18-2-1.2 Proposals for transmitting and receiving facilities and towers for cellular communications systems and similar communications systems shall demonstrate the following: (2/14/96, Case TA-95-07, Ord. No. 002-96; 8/13/13, Case TA-13-198, Ord. No. 2013-21)

- All possible means for sharing space on existing towers or on existing buildings or other structures have been exhausted and no alternative other than constructing a new tower exists, and if a new tower is proposed, the applicant has executed a Letter of Intent to share space on their tower and negotiate in good faith with other interested parties.;
- The height of any tower is no more than the minimum to accomplish required coverage and any new tower is separated from property lines in a residential district by not less than the height of the tower. In no case shall any tower exceed 75 feet in height in a LR, MR, HR, HR-1, RO-1, RB-1 or HS Districts, nor 100 feet in the B-1, B-2, CM-1, PC, MC or HE-1 Districts, nor 200 feet in the M-1 or M-2 Districts;
- The tower construction is of a design which minimizes the visual impact and the tower and other facilities have been camouflaged and/or screened from adjacent properties and rights of way to the maximum extent practicable. To this end, the proposal must provide for retention of existing stands of trees and the installation

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of screening where existing trees do not mitigate the visual impact of the facility. Such screening must, at a minimum, meet the requirements of Section 19-5-6.4d of this Ordinance. The Planning Commission may recommend and the City Council may require additional trees and screening when the minimum provisions do not mitigate adverse visual impacts of the facility;

- The electromagnetic fields do not exceed the radio frequency emission standards established by the American National Standards Institute or standard issued by the Federal Government subsequent to the adoption of this Ordinance.

18-2-3 PROCEDURES.

18-2-3.1 The procedures governing the application for and the granting of conditional use permit where required by this Ordinance shall be as follows: (10/11/83, Case 83-06, Ord. No. 034-83)

18-2-3.2 The applicant, who shall be a record owner, or contract owner with written approval of the owner, of the land involved (if a contract owner, copy of said contract shall be filed with and made a part of application), shall make application for the use permit to the Administrator on the form provided for that purpose, giving all information required by such form, including such other information which the Administrator may deem necessary for an intelligent consideration of the project for which a permit is desired. The application shall be accompanied by the fee as per Section 23-8, evidence of delinquent tax payment per Section 23-9, and disclosure of real party interest per Section 23-10 of this Ordinance and ten (10) copies of the following: (10/13/92, Case TA-92-02, Ord. No. 016-92; 8/16/02, Case TA-02-04, Ord. No. 014-2002)

18-2-3.3 A site plan in accordance with Article 19 of this Ordinance.

18-2-3.4 The front, side, and rear elevations and floor plans of the proposed buildings.

18-2-3.5 Public Notice and Hearing. The Administrator shall submit the conditional use permit application and copies of the site plan to the Commission, which shall make a recommendation to City Council which shall approve, approve with conditions, or deny the application. No such use permits shall be considered by the Commission or the Council except after notice and hearing as per Section 23-7-1 of this Ordinance. Written notice shall be provided per Section 23-7-2 of this Ordinance for both the Commission and City Council hearings. (2/9/88, Case TA-87-14, Ord. No. 009-88; 10/13/92, Case TA-92-02, Ord. No. 016-92)

18-2-3.6 Notification Signs. For the hearing by both the Commission and City Council, the applicant shall place notification signage as per Section 23-7-3 of this Ordinance. (2/9/88, Case TA-87-14, Ord. No. 009-88; 10/13/92, Case TA-92-02, Ord. No. 016-92)

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18-2-3.7 Upon the granting of a use permit, one (1) copy of the site plan, upon which has been indicated the changes or restrictions, if any, required by the City Council or the Board of Zoning Appeals, shall be returned to the applicant, who may thereafter conduct the operations for which permits has been granted only in such manner and for such a time as the permit and the certified drawing shall specify. A use permit shall be valid for only the specific use it covers in the specific location designated.

18-2-3.8 **EXPIRATION**
Notwithstanding any specific provision of any condition imposed by City Council in conjunction with the granting of a Conditional Use Permit which may conflict with this general provision, a Conditional Use Permit shall expire immediately upon any of the following occurrences: a) the use does not commence within one year of approval; b) the use ceases for more than one year; or, c) the use changes to another use allowed in the district. In cases where government action impedes reasonable operation of the use, these provisions shall not include the duration of such restrictions. Where permits are granted for portions of a site and/or structure, the expiration shall apply to just that portion of the site and/or structure. (10/13/92, Case TA-92-02, Ord. No. 016-92; 6/13/00, Case TA-00-03, Ord. No. 015-2000; 2/10/09, Case TA-08-10, Ord. No. 2009-06)

18-2-3.9 **REVOCACTION BY CITY COUNCIL**
If the applicant or successor fails to comply with any conditions imposed by City Council per Section 18-2-1.1, City Council may, in accordance with §15.2-2286, Code of Virginia, et seq., either amend or revoke the Conditional Use Permit upon notification from the Administrator of such failure to comply. No such amendment or revocation shall be considered by City Council until a public hearing has been held per Section 23-7-1 of this Ordinance. (2/10/09, Case TA-08-10, Ord. No. 2009-06)

SECTION 18-3. USES NOT PROVIDED FOR.

18-3-1 Uses not specifically permitted in any district established under this Ordinance shall not be allowed. Persons desiring inclusion in this Ordinance of a use not specifically permitted shall apply for an amendment to the text of the Ordinance, following the provisions of Article 22, AMENDMENTS. (10/11/83, Case 83-06, Ord. No. 034-83)

SECTION 18-4. OCCUPANCY OF DWELLING UNITS.

18-4-1 Intent: The purpose of this Section is to promote the health, safety and general welfare of the public within the residential section of the City of Winchester by providing occupancy standards set forth in this section. Notwithstanding any other provision of this Ordinance, occupancy of dwelling units shall be limited to the maximum number of occupants allowed by this Section, to protect against threats to neighborhood quality that can accompany overcrowding of land, or undue density of population in relation to existing or available community facilities caused by excessive occupancy. (1/10/06, Case TA-05-05, Ord. No. 001-2006)

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18-4-2 Dwelling Unit Occupancy. (10/9/07, Case TA-07-02, Ord. No. 2007-41)

The maximum number of adult occupants permitted in a dwelling unit is based upon the size of the entire dwelling unit. The following table outlines these limits for dwelling units, other than those identified as multifamily or condominium dwellings.

Livable Floor Area** of Dwelling Unit (in square feet)	Maximum Number of Adult Occupants*
1 to 1,200	4 adult occupants
1,201 to 1,750	5 adult occupants
1,751 to 2,400	6 adult occupants
2,401 to 3,150	7 adult occupants
3,151 to 4,000	8 adult occupants
4,001 to 4,500	9 adult occupants
4,501 to 5,000	10 adult occupants

**Adult occupant* means any individual 18 years of age or older, living or sleeping in a building for more than thirty days in a given year and/or who uses the dwelling as their legal address.

***Livable Floor Area* means any section of the dwelling unit that provides adequate light, heat and electrical service and is not already designated as a closet or bathroom.

In a condominium or Multifamily units, the number of adults allowed is calculated by taking the square footage of the dwelling unit and dividing by 200. The result gives the number of adults who may live in that dwelling unit according to this standard. Occupancy shall also conform to the limits prescribed in Sections 18-4-4 and 18-4-6 of this Ordinance.

18-4-3 Occupancy Standards for Bedrooms. (1/10/06, Case TA-05-05, Ord. No. 001-2006)

One occupant per bedroom requires at least 70 square feet of bedroom floor area. Two or more occupants requires at least 50 square feet of bedroom floor area per person. The table below specifies the maximum number of occupants per room that would be allowed in a specified dwelling unit based on the floor area of each designated bedroom.

Required Bedroom Area

Minimum Bedroom Size (square feet)	Maximum Number of Occupants per Room*
70	1
100	2
150	3
200	4

**Number of occupants* includes adults and children.

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18-4-4 Requirements for Bedroom Classification. (1/10/06, Case TA-05-05, Ord. No. 001-2006)

- a) Two means of exit must be available from a bedroom, with one being a door or window leading directly to the exterior.
- b) A window exit must have a width of at least 20 inches, a height of at least 24 inches, and a clear opening at least 5.7 square feet in area. A window sill may be a maximum of 44 inches.
- c) An exit must not lead through another sleeping area or a bathroom.
- d) Sleeping rooms built after 1996 must have an electrically-powered smoke detector, interconnected with smoke detectors in other sleeping rooms.

18-4-5 Living Space Requirement. (1/10/06, Case TA-05-05, Ord. No. 001-2006)

When determining the maximum occupancy load for a dwelling unit, the table below mandates the minimum required areas that can accommodate the occupant's living space. This minimum square footage must be in addition to the required Occupancy Standards for Bedrooms set out in Section 18-4-4 of this Ordinance.

Required Livable Space	Minimum Area in Square Feet		
	1-2 occupants	3-5 occupants	6 or more occupants
Living Room	No requirements	120	150
Dining Room	No requirements	80	100
Kitchen	50	50	60

**Number of occupants includes adults and children.*

18-4-6 An owner of a dwelling unit that occupies or allows the occupancy of a dwelling unit by a number of occupants in excess of the maximum occupancy prescribed shall forthwith lower the occupancy to a level consistent with the limits of this Ordinance. An occupant of a dwelling unit occupied by a number of occupants in excess of the maximum occupancy here prescribed shall forthwith lower the occupancy to a level consistent with the limits of this Ordinance. (1/10/06, Case TA-05-05, Ord. No. 001-2006)

18-4-7 The Administrator or one of his/her agents is authorized to investigate incidents of possible excessive occupancy in the City. In exercising the powers granted by this section, the Administrator or the designated agent may inspect buildings according to the procedures set out in Code of Virginia, §15.2-1745 & §27-98.2 (as amended) Upon the Administrator's conclusion that there exists excessive occupancy of a dwelling unit, the Administrator, on behalf of the City, may seek an injunction to limit, lower or control the number of occupants in the dwelling unit. (1/10/06, Case TA-05-05, Ord. No. 001-2006)

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18-4-8 When determining if excessive occupancy exists in a dwelling, the Administrator or one of his/her agents shall conduct an investigation and keep the findings on file for a period of no less than five years. The investigation will collect information about indicators of excessive occupancy including, but not limited to: number of vehicles stored and registered at the dwelling, water usage, amount of trash, number of complaints from surrounding property owners, and number of people seen entering and exiting the dwelling at various times during the day. (1/10/06, Case TA-05-05, Ord. No. 001-2006)

SECTION 18-4.1 USE OF DWELLING UNITS

18-4.1-1 In any district in which residential uses are allowed or legally exist, a Dwelling Unit, as defined in Section 1-2-31 of this Ordinance must be used for occupancy by a Family as defined in Section 1-2-36, of this Ordinance for residential purposes as its principal use. Any use for residential occupancy by any other entity or person(s) shall constitute a violation of this Ordinance. (10/9/07, Case TA-07-02, Ord. No. 2007-41)

18-4.1-2 Transient use of a Dwelling Unit, other than a group home or assisted living facility, as defined in Section 1-2 of the Ordinance, is not permitted in any district, without either a Conditional Use Permit or a Certificate of Occupancy for a Nonconforming Use. (9/14/10, Case TA-10-333, Ord. No. 2010-38)

18-4.1-3 Prima Facie evidence that a Dwelling Unit is being used for transient purposes or for a non-permitted boardinghouse, as defined in Section 1-2-12 of this Ordinance, shall include the existence of any one or more of the following characteristics: separate rental agreements for different occupants; exterior locking mechanisms on interior doors of rooms for occupants; separate entrances from the exterior of the building for individual occupants; and normally common areas of dwelling unit, such as the living room, family room or dining room, being used as sleeping areas or not being available on an equal or common basis to all occupants.

SECTION 18-5. USE AND STORAGE OF RECREATIONAL EQUIPMENT.

18-5-1 No major recreational vehicles shall be used for living, sleeping, or other occupancy when parked or stored on a residential lot, or in any other location not approved for such use. (5/13/08, Case TA 07-06, Ord. No. 2008-24)

18-5-2 Recreational vehicles owned, leased, or otherwise kept by owners and/or occupants of the property may be parked on private property used and occupied for residential purposes in accordance with the following requirements:

- a. For Single-Family Detached and Two-Family Dwellings, recreational vehicles exceeding an average height of 80" above surrounding grade shall be parked on an improved surface behind the front and corner-side setback

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lines of the main building and shall not exceed two recreational vehicles per dwelling. Recreational vehicles that do not exceed an average height of 80" above surrounding grade may be parked in a required front or corner-side yard, in accordance with the provisions of Section 18-6-3.3.

- b. For Townhouse developments and Multiple-Family Dwellings, recreational vehicles shall be parked on an improved surface behind the front and corner-side yard setback lines and within a clearly designated area noted on the site plan as approved by the Director of Planning. The maximum number of recreational vehicles per dwelling unit shall be equivalent to no more than one (1) such vehicle per five (5) dwelling units. When there are less than (5) dwelling units, the total number of recreational vehicles permitted on the property shall not exceed one (1).
- c. Recreational vehicles that are openly stored on the property shall conform to the regulations found within Section 18-6-10, regarding storage of inoperable vehicles.

18-5-3 Recreational equipment consisting of tents, shelters, lean-to's, or similar accessory structures shall not be used for permanent or transient occupancy on any residential property, or in any other location not approved for such use.

SECTION 18-6. MINIMUM OFF-STREET PARKING.

The purpose of these regulations is to set forth off-street parking, display, standing, and loading requirements for permitted uses, in accordance with the intensity of such uses; and, to provide adequate parking for the traveling public in order to reduce traffic hazards and conflicts between motor vehicles and alternate methods of transportation; to allow flexibility in addressing vehicle parking, loading, and access issues; to present a variety of strategies to solve parking issues; to encourage walking and alternate modes of transportation; and to maintain and enhance a transportation system that is consistent with environmental goals and clean air. (10/13/09, Case TA-09-89, Ord. No. 2009-27)

18-6-1.1 Every use or structure instituted, constructed, erected, enlarged, or structurally altered after the effective date of this Ordinance shall provide off-street parking areas in accordance with the provisions of this article, except as otherwise provided for in this Article, or for change of use within an existing nonresidential structure as specifically stated below (10/13/09, Case TA-09-89, Ord. No. 2009-27):

- a. Where off-street parking area as defined in Sections 18-6-2.3, 18-6-3.4 and 18-6-3.5 is included; and, where there is no enlargement of the existing structure, no additional parking is required.
- b. Where off-street parking area as defined in Sections 18-6-2.3, 18-6-3.4 and 18-6-3.5 does not exist; and, where there is no enlargement of the existing structure, a minimum of 80% of the total required off-street parking for the use(s) shall be provided.

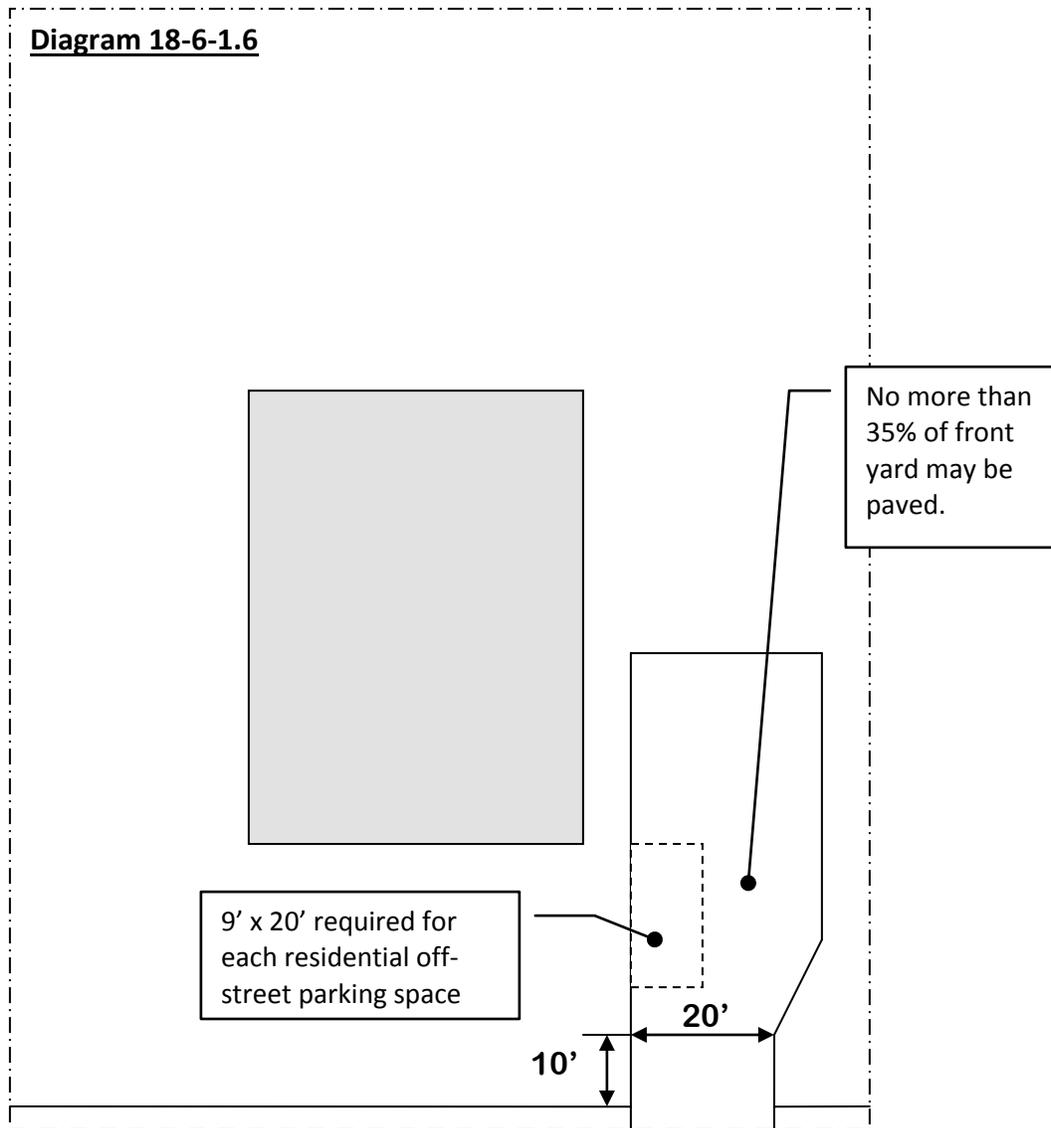
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- c. In all cases, when the change of use generates an off-street parking area requirement for no more than 5 vehicles and where there exists on-street parking, no additional parking is required.

- 18-6-1.2 Such off-street parking areas shall be maintained and continued as long as the use is continued. (1/12/93, Case TA-92-03, Ord. No. 001-93; 10/13/09, Case TA-09-89, Ord. No. 2009-27)
- 18-6-1.3 No owner or operator of any structure or use affected by this Article shall discontinue, change, or dispense with the required off-street parking areas without establishing alternative facilities which meet the requirements of this Article. (1/12/93, Case TA-92-03, Ord. No. 001-93; 10/13/09, Case TA-09-89, Ord. No. 2009-27)
- 18-6-1.4 No person, firm, or corporation shall utilize such structure or use without providing the off-street parking areas to meet the requirements of and be in compliance with this Article. (1/12/93, Case TA-92-03, Ord. No. 001-93)
- 18-6-1.5 When a permitted use is nonconforming as to the quantity of required off-street parking areas, and said use is enlarged with respect to the unit of measurement specified in this Section as the basis for determining the amount of parking, loading and standing spaces, additional off-street parking areas shall be required only on the basis of the enlargement of the permitted use, except in the following circumstances (10/13/09, Case TA-09-89, Ord. No. 2009-27):
- a. Where the enlargement is less than 25% of the structure's gross floor area, but not more than 1,000 square feet, no additional parking is required.
 - b. The Director of Planning may grant a reduction or waiver of this requirement in the B-1, RB-1, PC, and PUD Districts upon a determination that: (i) space limitations do not permit the provision of additional parking, (ii) there is on-street parking available, and/or (iii) the provision

of additional parking would necessitate the demolition of an existing structure, in whole or in part.
- 18-6-1.6 Off-street parking for residential uses of single-family detached dwellings shall be exempt from all provisions of this Article except for Section 18-6-3.5 and 18-6-5. Required off-street parking spaces for single-family detached dwellings shall be at least 9 feet wide and 20 feet deep and except that driveways in front yards of single family lots shall not exceed twenty (20) feet in width for the first ten (10) feet adjacent to the front lot line and shall not encumber more than thirty five percent (35%) of the front yard, except that any single family lot may, at a minimum, provide a nine (9) foot wide by twenty (20) foot long off-street parking area in the front yard unless otherwise restricted by a PUD or conditional zoning. (1/12/93, Case TA-92-03, Ord. No. 001-93; 1/14/03, Case TA-02-09, Ord. No. 002-2003; 10/13/09, Case TA-09-89, Ord. No. 2009-27) **See diagram 18-6-1.6.**

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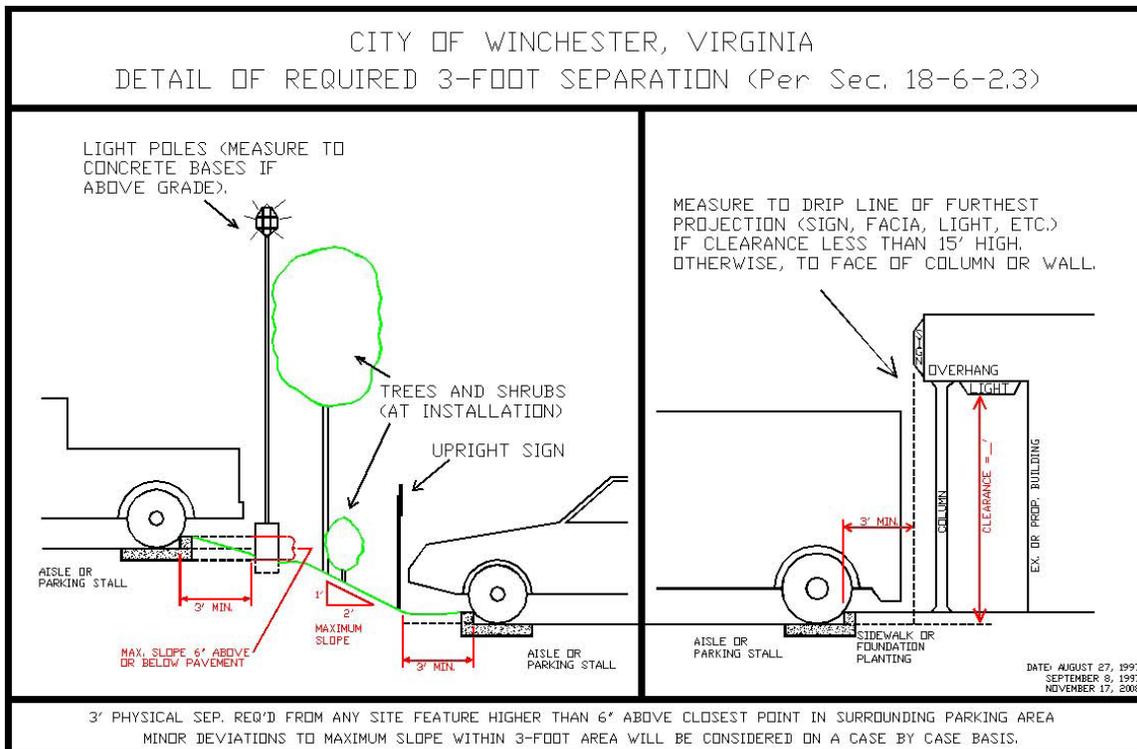
18-6-2. DEFINITIONS.

18-6-2.1 Building Capacity. The seating capacity of a structure or the number of employees shall be the maximum which can be accommodated on the premises.

18-6-2.2 Loading Space. A space or a portion of any area designated, required, or by its nature used as an area for the temporary parking of motor vehicles while transferring, loading, or unloading goods, merchandise, products, or while performing services. Such space shall be a minimum of ten (10) feet in width, twenty-five (25) feet in length, and fifteen (15) feet in height.

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18-6-2.3 **Off-Street Parking Area.** An area of land other than within a public right-of-way required or provided to accommodate parking spaces, standing spaces, vehicular display or storage spaces, loading spaces, and necessary access drives, aisles and islands which are wholly segregated from any other portion of the site by continuous curbing except for ingress or egress connections, loading bays, areas where a sidewalk provides a sufficient raised edge, or places providing required handicap access. A separation of at least three (3) feet from any site feature more than six (6) inches above or below the elevation of the closest point in the parking area shall be provided. The Director of Planning may permit a reduction of up to 2 feet in the paved length of required spaces, where such spaces are adjacent to a planting island or other physical separation, excluding a sidewalk, that permits the overhanging of vehicles parked in such spaces. Parking areas may be surface lots or within structures. Curbing and separation standards herein may be waived by the Director of Planning when it can be demonstrated that the waiver(s) will not encourage undesirable nor unsafe vehicle encroachment. Portions of structures allocated to parking shall not be subject to the provisions of Section 18-6-4. (9/13/88, Case TA-88-05, Ord. No. 035-88; 1/12/93, Case TA-92-03, Ord. No. 001-93; 8/8/95, Case TA-95-03, Ord. No. 032-95; 10/13/09, Case TA-09-89, Ord. No. 2009-27)



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18-6-2.4 Parking Space. A portion of an off-street parking area used for the temporary storage of a passenger vehicle. Except as elsewhere noted, in order to be credited as a required space, the following minimum standards must be met: (1/12/93, Case TA-92-03, Ord. No. 001-93; 10/13/09, Case TA-09-89, Ord. No. 2009-27)

<u>ANGLE</u>	<u>STALL WIDTH</u>	<u>TOTAL MODULE AISLE PLUS SPACES ON ONE SIDE</u>	<u>TOTAL MODULE AISLE PLUS SPACES ON BOTH SIDES</u>
90	9 ft.	42 ft.	60 ft.
75	9 ft.	40 ft.	59 ft.
60	9 ft.	36 ft.	54 ft.
45	8.5 ft.	30 ft.	48 ft.
0	22 ft.	21 ft.	32 ft.

Note: Aisles are two-way for 90 degree angled parking, and one-way for all other angles. Perpendicular (90 degree) parking is encouraged. Where a parking space fronts upon another parking space and is not separated by means of curbed landscaped median of four feet or more in width, said space shall be increased by two feet in depth to allow for vehicle overhang. In parking areas containing more than 10 parking spaces, the Director of Planning may allow up to 30% of the required off-street parking spaces to be designed for compact cars. All compact spaces shall be clearly marked as such. The required minimum width for compact spaces is 8 feet. (9/13/88, Case TA-88-05, Ord. No. 035-88; 10/13/09, Case TA-09-89, Ord. No. 2009-27)

18-6-2.5 Repealed. (01/12/93)

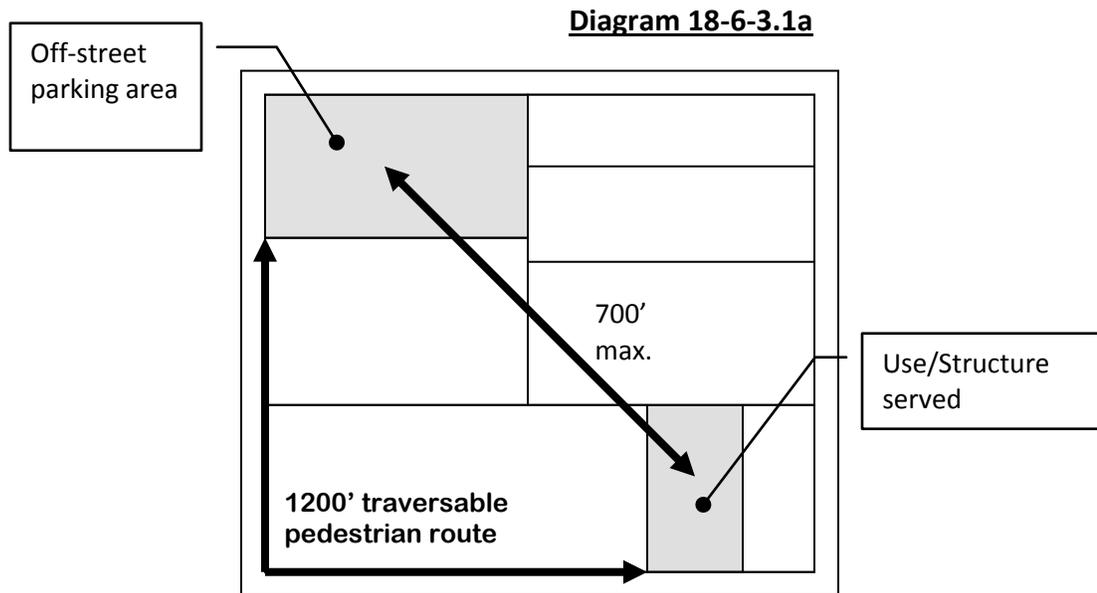
18-6-2.6 Standing Space. A space by its nature used as an area for the temporary stopping of a motor vehicle, while under the control of its driver, for the purpose of embarking or discharging passengers, baggage, or merchandise, or for the purpose of utilizing special motor vehicle-oriented services. Such space shall be a minimum of 8.5 feet in width and 18 feet in length. (1/12/93, Case TA-92-03, Ord. No. 001-93; 10/13/09, Case TA-09-89, Ord. No. 2009-27)

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18-6-3.1 Location of Off-Street Parking Areas. The off-street parking areas required by this Article shall be located on the same lot or parcel of land that they are intended to serve, except as follows: (1/12/93, Case TA-92-03, Ord. No. 001-93; 10/13/09, Case TA-09-89, Ord. No. 2009-27)

- a. Off-site spaces shall be within 700 feet of the use or structure served. For the purpose of this requirement, distance from parking spaces to the use or structure served shall be measured in a straight line from the nearest parking space to the use served. However, no space shall be more than 1,200 feet away from the use or structure served as measured along a traversable pedestrian route. ***See diagram 18-6-3.1a.***

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- b. Off-site parking spaces may be located in a different zoning district than the use or structure served, if permitted by right or by conditional use permit in such zoning district.
- c. An off-site location must either: (i) be located on land in the same ownership as that of the use or structure served, or in the case of cooperative provision of parking space as described in Section 18-6-3.7, in the ownership of at least one of the participants in such provisions, or (ii) be subject to arrangements (such as long-term lease, recorded easement, etc., providing the required parking arrangements for a period of at least 25 years) as will assure the availability of such space for the duration of the use or structure to be served.
- d. No changes shall be made to any off-site parking lot that would reduce the parking available for a use or structure served by such lot, unless alternate parking arrangements are made to provide an equivalent number of spaces and such alternate arrangements are approved by the Director of Planning.
- e. All required handicapped parking spaces must be located on-site. This requirement may be waived by the Director of Planning, upon a determination that space limitations do not permit the provision of the required handicapped spaces on-site, or the owner of the use or structure to be served by such spaces demonstrates that the proposed use can be adequately served by existing designated on-street handicapped space(s) within 75 feet of such use or structure.

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- f. All required loading spaces for a use or structure must be located on-site.

18-6-3.2 Off-Street Parking Area Buffer. No off-street parking area required or provided shall be situated within ten (10) feet of any front or corner side property line nor within five (5) feet of any side or rear property line except as follows:

- a. In the Central Business District (B-1) and Residential Business (RB-1) zones, where off-street parking areas shall not be situated within four (4) feet of front and corner side property lines nor three (3) feet of side and rear property lines;
- b. Along common property lines over which combined or shared off-street parking areas have been approved as per Section 18-6-3.1 of this Ordinance, where no buffer is required, and;
- c. Along side or rear property lines abutting a residential zoning district where the abutting property is vacant or residentially used, in which case a fifteen (15) foot wide buffer area shall be provided. (1/12/93, Case TA-92-03, Ord. No. 001-93; 5/8/01, Case TA-01-01, Ord. No. 017-2001)

18-6-3.3 Private streets and common drives shall not encroach into required yards for Townhouse developments. (01/14/02, Case TA-02-09, Ord. No. 002-2002)

18-6-3.4 Delineating Parking Spaces. Whenever five (5) or more parking spaces are provided, such spaces shall be delineated by painted lines, curb stops, signs, or other acceptable means that will ensure the availability of the required number of parking spaces. (10/11/83, Case 83-06, Ord. No. 034-83)

18-6-3.5 Surfacing of Off-Street Parking Areas. Except as noted below, off-street parking areas shall be surfaced with a minimum of two (2) inches of compacted bituminous concrete on a suitable base except that the Director of Planning may waive this requirement where another material is found to be more appropriate. Construction shall be to City specifications. (9/13/88, Case TA-88-05, Ord. No. 035-88; 12/11/90, Case TA-90-06, Ord. No. 043-90; 1/12/93, Case TA-92-03, Ord. No. 001-93; 5/13/08, Case TA-07-06, Ord. No. 2008-24; 10/13/09, Case TA-09-89, Ord. No. 2009-27)

- a. Alternative surface improvement materials that are pervious and can aid in storm water management and run-off reduction are encouraged, in particular for off-street parking areas located within a Floodplain (FP) overlay District and for individual parking spaces outside of main vehicular travelways.

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- 18-6-3.5.1 Residential Off-Street Parking Area Requirements. In addition to those provisions outlined in Section 18-6-3.5, the following shall apply to off-street parking areas within residential properties (10/13/09, Case TA-09-89, Ord. No. 2009-27):
- a. No person shall park any motor vehicle, trailer, or semi-trailer in the front, corner-side, side, or rear yard of any lot, improved with a single-family dwelling, zoned for residential use, except on an improved surface. (5/13/08, Case TA-07-06, Ord. No. 2008-24)
 - b. For properties containing the residential use and occupancy of a single-family detached dwelling, parking area and access driveway surfaces shall be designed and improved using accepted engineering practices for usability and longevity with asphalt, concrete, unit pavers or similar material approved by the City Engineer and shall be designed so as not to create or increase adverse effects on adjoining properties as a result of surface drainage. (5/13/08, Case TA-07-06, Ord. No. 2008-24)
 - c. Parking areas and access driveways located within a required front or corner-side yard on residential lots improved with a single-family dwelling shall not consist of gravel. Gravel may be used as an alternate improved surface material for parking areas within the side or rear yard of any lot improved with a single-family dwelling, zoned for residential use. (5/13/08, Case TA-07-06, Ord. No. 2008-24)
- 18-6-3.6 Access and Site Planning Requirements. Ingress and egress to the property, and traffic lanes, parking spaces and loading and service areas on the premises shall form a convenient and well-organized system appropriate to the uses in the building. No off-street parking area shall be designed to permit backing out directly onto a public street. Entrances and exits shall be so arranged so as to minimize conflicts with traffic on public streets and to reduce traffic noises on portions of the lot where there might be adverse effects on residential uses on the property or on any uses on adjacent property. Inter-parcel connectors providing vehicular connections between adjacent parcels are encouraged. Where applicable, driveways shall be aligned with existing and proposed median crossings and driveways on the opposite street side. (10/12/93, Case TA-93-05, Ord. No. 034-94)
- A. Minimum driveway spacing standards shall apply to development on lots in the B-2, CM-1, M-1, M-2, and RO-1 Districts in order to provide safe and convenient access and efficient travel on City streets. Standards for minimum spacing between adjacent driveways as well as between driveways and street intersections shall be as follows:

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Category II and III Streets (per Subdivision Ordinance Section 2-2-32 and 2-2-33);

Posted Speed Limit	Minimum Required Spacing
Less than 35 mph	125 feet
35 mph or more	175 feet

For all Category I Streets (per Subdivision Ordinance Section 2-2-31) minimum required spacing shall be 60 feet.

Distances shall be measured from the tangents to the curb returns of the driveways and/or intersecting street. Divided driveways (one-way in/out) shall be considered one driveway.

- B. Exceptions to the above minimum driveway spacing standards may be allowed by the Commission upon recommendation of the Director of Public Works or his/her designee when based upon horizontal or vertical characteristics of the adjoining street. Exceptions may also be allowed by the Commission for existing lots where existing frontage does not provide adequate spacing to adjacent driveways or intersections. Such exceptions shall be considered in the following manner:
1. If frontage exists along more than one street and at least one frontage meets the spacing standards for that category of street, then no exceptions shall be considered for the other deficient street frontage(s).
 2. If no frontages provide adequate distance to meet the above driveway spacing standards then the applicant must first demonstrate that shared access from an adjacent lot with an existing driveway cannot be secured. A written request for shared access (at the existing driveway or at a mutually agreeable replacement location) must be sent by registered or certified mail to the immediately adjacent property owner(s). A separate driveway to the subject lot will be considered upon written rejection of shared access from the adjacent property owner(s) or the expiration of a thirty (30) day response period. If a separate driveway is allowed on the subject lot, the owner shall grant a vehicular access easement to allow for a future inter-parcel connector to at least one adjacent lot.
 3. If a lot has more than one frontage and no frontage provides adequate spacing for a driveway and if all adjacent property owners refuse shared access from their property per the procedures set forth in the preceding subsection, then one access shall be allowed along the lowest category street with the lowest speed limit or as specifically recommended otherwise by the Commission.

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- C. Driveways, parking, loading, and service areas shall be so located, designed, constructed, maintained, and operated as to minimize the impact or adverse visual effects and noise on other portions of the property and on surrounding property, particularly residential property and where necessary, fences, walls, and/or vegetative screening shall be provided and maintained to further these purposes. Loading docks, service bays, and overhead doors shall not be oriented so as to be visible from a public street. The Administrator may waive this requirement after consultation with the Commission upon a showing that such orientation cannot be reasonably achieved in which case screening shall be provided to buffer street view according to Section 19-5-6.4b of this Ordinance. (1/12/93, Case TA-92-03, Ord. No. 001-93)

18-6-3.7 COOPERATIVE PARKING ARRANGEMENTS (10/13/09, Case TA-09-89, Ord. No. 2009-27)

- a. With the approval of the Director of Planning, required off-street parking may be provided cooperatively for two or more uses of the same or different types, provided that arrangements are made (a long-term lease, recorded easement, etc.) such as will assure the availability of such space for the duration of the use to be served, and provided further that, unless reduced by the Director as set forth below, the number of spaces provided shall not be less than the sum of the individual requirements.
- b. Cooperative parking arrangements shall provide off-street parking spaces as per the provisions of Section 18-6-3.1a.
- c. Once approved by the Director, any subsequent change to a cooperative parking arrangement that affects the availability and convenience of the shared space shall constitute grounds for revocation of the occupancy certificates for the uses served.

18-6-4 CALCULATING NUMBER OF OFF-STREET PARKING.

18-6-4.1 In calculating the number of such parking spaces, the following rules shall govern:

- a. Floor area shall mean the gross floor area of the specific use.
- b. When the units of measurements determining the number of required parking spaces result in the requirements of a fractional space, any fraction up to and including one-half (1/2) shall be disregarded, and fractions over one-half (1/2) shall require one (1) additional parking space.
- c. The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of similar nature.

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- d. In the case of mixed uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately, except as otherwise provided in this Article. (5/9/00, Case TA-99-07, Ord. No. 012-2000)
- e. Off-street parking facilities supplied to meet the needs of one use shall not be considered as meeting the off-street parking needs of any other use, except that time-shared parking arrangements may be allowed for uses within buildings existing at the time of adoption of this Ordinance. All time-shared parking shall be in accordance with the following chart and provisions:

The minimum number of off-street parking spaces required under a time-shared arrangement shall be calculated by multiplying the number of spaces normally required for each land use per Section 18-6-5 of this Ordinance by the appropriate percentages corresponding to the land use and time of use figures below. All land uses on the site(s) considered for time-shared parking must be included in the calculation. The number of parking spaces required shall be determined by totaling the resulting numbers in each column. The column total that generates the highest number of spaces then becomes the minimum parking requirements.

Land use	Weekday		Weekend	
	Daytime	Evening	Daytime	Evening
	6am-6pm	6pm-6am	6am-6pm	6pm-6am
Office	100%	10%	10%	5%
Retail/Service (over 10hr)	80%	60%	100%	50%
Retail/Service (not over 10hr)	70%	30%	100%	30%
Transient Lodging	60%	100%	75%	100%
Restaurant	60%	90%	80%	100%
Auditorium, assembly hall, community center, theater, indoor recreation facility, dance hall, arena, amphitheater, stadium (without week-day daytime programs)	10%	80%	85%	100%
Same as above (with week-day daytime programs)	40%	80%	85%	100%
places of worship without weekday daytime programs	10%	40%	100%	60%
Art Gallery	30%	50%	100%	80%
Residential	50%	100%	80%	90%
All other uses	100%	100%	100%	100%

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Time-shared off-street parking may be provided off-site per Section 18-6-3.1 of this Ordinance. However, if any portion of the shared parking is provided off-site, the written agreement thereto assuring the retention for such purposes shall be recorded in the land records in addition to being filed with the Zoning Administrator.

Reserved parking spaces, spaces requiring special security access or on-site payment of fees by the user shall not be shared. Any change of use on the site(s) employing a time-shared parking arrangement shall require documentation to be submitted with the certificate of occupancy to ensure that the quantity of shared parking is sufficient per the above table. (2/12/08, Case TA-07-09, Ord. No. 2008-11; 10/13/09, Case TA-09-89, Ord. No. 2009-27; 7/10/12, Case TA-12-187, Ord. No. 2012-20)

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18-6-5. AMOUNT OF OFF-STREET PARKING REQUIRED.

18-6-5.1 The off-street parking required by this Article shall be provided and maintained on the basis of the following requirements specified in the following tables, except as otherwise provided in this Article: (9/12/89, Case TA-89-01, Ord. No. 022-89; 4/10/90, Case TA-89-14, Ord. No. 012-90; 7/8/97, Case TA-97-05, Ord. No. 016-97; 10/13/09, Case TA-09-89, Ord. No. 2009-27; 6/8/10, Case TA-10-111, Ord. No. 2010-19; 7/10/12, Case TA-12-187, Ord. No. 2012-20)

Table 18-6-5.1

Use	Size or Type	Required Number of Spaces
Residential Uses		
Single-family (attached or detached) and two-family dwelling		1 per dwelling unit
Townhouse dwelling	1-2 bedrooms	1 per dwelling unit
	3 or more bedrooms	2 per dwelling unit
Multifamily dwelling	Efficiency; 1-2 bedroom unit	1 per dwelling unit
	3 or more bedroom unit	2 per dwelling unit
Boardinghouse, Bed and Breakfast Inn, and Bed and Breakfast Homestay		0.5 per bedroom
Dormitory, fraternity or sorority		1 for each 2 beds
Group Home	1-8 bedrooms	2 per facility, plus 1 for each non-resident employee
Family Day Home	1-5 children	1 for each non-resident employee, plus parking required for the dwelling
Adult Care	Nursing Homes	1 for each 4 beds; plus 1 for each employee, based on largest shift
	Assisted Living Facility	1 for each 3 beds; plus 1 for each employee, based on largest shift

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Use	Size or Type	Required Number of Spaces
Non-Residential Uses: Educational, Institutional, and Public		
Assembly-theater, auditorium, arena, stadium, amphitheater, place of worship, etc.	No fixed seats	1 for each 150 sq. ft. of assembly space
	Fixed seats	1 for each 5 seats
Clinic – Medical, Dental, or Veterinary		1 for each examination room, plus one for each employee, based on largest shift
Club, private		1 for each 4 persons allowed at maximum occupancy
Daycare facility		1 for each 1.5 employees
Funeral homes and crematories		1 for each 5 persons, based on maximum occupancy of assembly space; plus 1 for each employee, based on largest shift; plus 1 for each company vehicle stored on-site
Hospital		1 for each five beds; plus 1 per emergency or out-patient exam table; plus 0.6 for each employee (including staff doctors), based on largest shift
Museum, art gallery, library or similar use		1 for each 400 sq. ft. of GFA
School	Preschool, playschool, nursery school, and kindergarten	1 for each classroom
	Elementary and Middle	1 for each classroom
	High school	1 for each employee, based on largest shift, plus 1 per 5 students
	College and university, art institute, and vocational or technical training center	1 for each 2 students

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Use	Size or Type	Required Number of Spaces
Non-Residential Uses: Recreational		
Amusement center	Indoor arcade	1 for each 4 persons, based on maximum occupancy
	Outdoor facility	1 for each 1,000 sq. ft. of amusement attraction area
Bowling alley		2 per alley
Golf course	Miniature	1 per hole
	Other	2 per hole
Indoor recreation facility (i.e., health/sport club, tennis club, swimming club, yoga studio, dance studio)		1 per each 4 persons, based on maximum occupancy
Outdoor recreation facility	Court, ball field	1 for each 2 players based upon maximum capacity
	Park, playground	1 per 600 sq. ft. of improved active recreational area, plus 1 for every 3 acres of passive recreation area
Non-Residential Uses: Office		
General office		1 for each 300 sq. ft. of GFA (excluding storage space)
Medical office (not clinic)	1-3 practitioners in same office	3 per examination or treatment room, plus 1 per employee on largest shift, including doctor
	4 or more practitioners in same office	7 per practitioner, or 1 for each 200 sq. ft. of GFA, whichever is greater
Financial institution		1 for each 300 sq. ft. of GFA

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Use	Size or Type	Required Number of Spaces
Non-Residential Uses: Commercial Retail		
Antique shop		1 for each 600 sq. ft. of GFA
Bakery	0-3 tables	1 for each 350 sq. ft. of GFA
	4 or more tables	1 for each 250 sq. ft. of GFA
Communications equipment sales (i.e., mobile/wireless telephones, satellite television dishes, computers)		1 for each 300 sq. ft. of GFA
Convenience store		1 for each 200 sq. ft. of GFA (excluding storage space)
Fuel sales, service station	No convenience store; no servicing of vehicles	1 space for each employee
	Convenience store; no servicing of vehicles	1 for each 400 sq. ft. of GFA
Furniture sales		1 for each 1,000 sq. ft. of GFA (including storage space)
General retail sales (not otherwise classified)		1 for every 300 sq. ft. of GFA (excluding storage space)
Grocery store and pharmacy		1 for each 250 sq. ft. of GFA (excluding storage space)
Hardware, Paint, Home improvement center		1 for each 1,000 sq. ft. of GFA, plus 1 per 2 employees, based on largest shift (minimum 2 spaces)
Non-Residential Uses: Motor Vehicle Uses		
Motor vehicle, sales of	With service facilities	1 for each 300 sq. ft. of GFA; plus 1 per service bay
	Without service facilities	1 for each 300 sq. ft. of GFA
Motor vehicle, parts and equipment sales	Without service facilities	1 for every 300 sq. ft. of GFA
Motor vehicle service		1 per service bay

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Use	Size or Type	Required Number of Spaces
Non-Residential Uses: Consumer Services		
General standard (not otherwise classified)		1 for each 300 sq. ft. of GFA of the use
Personal service (barber, beauty salon, nail salon, etc)		1.5 per chair or station
Laundry, self-service		1 for every 4 cleaning or laundry machines
Car wash		1.5 per bay; plus 1 per employee, based on largest shift
Hotel and motel		1 per guest room; plus 1 employee space for each 10 guest rooms
Restaurant	Generally	1 for each 100 sq. ft. of public floor area
	Drive-in (without seats)	1 for each 60 sq. ft. of GFA
Non-Residential Uses: Industrial Uses		
Generally		1 for each 400 sq. ft. of office space; plus 1 for each 2 employees; plus 1 for each company vehicle stored on-site
Storage or warehouse		1 for each 2,500 sq. ft. of GFA
Additional Requirements		
Outdoor sales, display or service area for any use	In combination with all other requirements	1 for each 500 sq. ft. of area devoted to such use
Outdoor storage	In combination with all other requirements	1 for each 2,000 sq. ft. of area devoted to such use

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- 18-6-5.2 Parking of Trucks and Buses in Residential Districts.
- 18-6-5.2a Trucks or buses of over one-half (1/2) ton shall not be parked in any required front yard in a residential district, except for purposes of making pickup or deliveries.
- 18-6-6 SPECIAL EXCEPTIONS FROM OFF-STREET PARKING AND LOADING REQUIREMENTS.
(9/14/82, Case 82-04, Ord. No. 016-82; 8/22/06, Case TA-06-04, Ord. No. 030-2006;
10/13/09, Case TA-09-89, Ord. No. 2009-27)
- 18-6-6.1 The following shall be exempt from the provision of off-street parking and loading spaces required by this Article (10/13/09, Case TA-09-89, Ord. No. 2009-27):
- a. Uses located within the boundaries of Parking District 'A' as depicted in Diagram 18-6-6.
 - b. Buildings, containing nonresidential uses, which are located three hundred (300) feet from a municipal parking lot of adequate capacity as determined by the Zoning Administrator
 - c. A Neighborhood Convenience Establishment or market garden, as defined, for which a conditional use permit has been granted, except that off-street parking and loading may be required as a condition of the permit. (10/12/10, Case TA-10-418, Ord. No. 2010-51)
- 18-6-6.2 The following shall be granted a 50% reduction of off-street parking and loading spaces required by this Article (10/13/09, Case TA-09-89, Ord. No. 2009-27):
- a. Uses located within the boundaries of Parking District 'B' as depicted in Diagram 18-6-6.

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18-6-6.3 Certain reductions in the number of required off-street parking spaces for particular use shall be allowed, under the following circumstances (10/13/09, Case TA-09-89, Ord. No. 2009-27):

- a. Where a use is located within 300 feet of a transit stop on an existing City transit route, the number of parking spaces required for such use shall be reduced by (i) 20% for uses located within a Corridor Enhancement (CE) District as defined in Article 14.2 of this Ordinance; or (ii) 10% for uses not located within a CE District. Where a use is located between 301 and 600 feet of a transit stop on an existing City transit route, a similar reduction of spaces shall be granted, in an amount equal to one-half of the percentage(s) specified in clauses (i) and (ii), above.
- b. Where bicycle lockers are provided on-site, the number of required off-street parking spaces shall be reduced by: (i) 10% for every (5) lockers, for uses located within the Central Business (B-1) and Residential Business (RB-1) Zoning District(s); or (ii) 5% for every five (5) lockers for uses located within any other zoning districts.
- c. When the proposed construction, alteration, renovation, or re-construction of a building is designated with LEED® certification, the following percentages of reduction shall be allowed:

Level of Certification	Percentage of Reduction
Certified	15%
Silver	20%
Gold	25%
Platinum	30%

- d. The total number of required parking spaces may not be reduced as a result of any bonus(es) listed in paragraphs (a) through (c), above, by more than (i) 35% for uses located within the B-1 or RB-1 Zoning Districts; or (ii) 20% for uses located elsewhere, however this shall not be construed to limit the reduction for Gold or Platinum LEED® certification as provided for in paragraph (c) above.

18-6-7 AMOUNT OF OFF-STREET LOADING REQUIRED.

18-6-7.1 There shall be provided on the premises used for the following purposes in any district at the time any building or structure is constructed, reconstructed, enlarged, extended, or structurally altered, spaces for off-street loading, except as otherwise provided in this Article in accordance with the following schedule:

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- a. For each retail store, storage, warehouse, wholesale establishment, industrial plant, factory, freight terminal, market, restaurant, mortuary, laundry, dry cleaning establishment, or similar use which has an aggregate floor area of:
 1. Over ten thousand (10,000) square feet but not over twenty-five thousand (25,000) square feet--one (1) space.
 2. Over twenty-five thousand (25,000) square feet but not over sixty thousand (60,000) square feet--two (2) spaces.
 3. Over sixty thousand (60,000) square feet but not over one hundred twenty thousand (120,000) square feet--three (3) spaces.
 4. Over one hundred twenty thousand (120,000) square feet but not over two hundred thousand (200,00) square feet--four (4) spaces.
 5. Over two hundred thousand (200,000) square feet but not over two hundred ninety thousand (290,000) square feet--five (5) spaces.
 6. For each additional ninety thousand (90,000) square feet or major fraction thereof--one (1) space.
- b. For each apartment building having over fifty (50) dwelling units - one (1) space.
- c. For each auditorium, museum, assembly hall, community center, hotel, office building, sports arena, stadium, gymnasium, hospital, sanitarium, or similar use which has an aggregate gross floor area of:
 1. Over ten thousand (10,000) square feet but not over forty thousand (40,000) square feet--one (1) space.
 2. Over forty thousand (40,000) square feet but not over one hundred thousand (100,000) square feet--two (2) spaces. (4/12/83, Case 83-01, Ord. No. 012-83)
 3. For each additional ninety thousand (90,000) square feet over one hundred thousand (100,000) square feet or major fraction thereof--one (1) space. (4/12/83, Case 83-01, Ord. No. 012-83)
- d. For any use not specifically mentioned in this section, the requirements for off-street loading, for a use which is so mentioned and to which the unmentioned use is similar, shall apply.

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1. Off-street loading facilities supplied to meet the needs of one (1) use shall not be considered as meeting the off-street loading needs of any other use.
2. No area of a facility supplied to meet the required off-street parking facilities for use shall be utilized for or deemed to meet the requirements of this Article for off-street loading facilities.

18-6-8 AMOUNT OF STANDING SPACE REQUIRED. (1/12/93, Case TA-92-03, Ord. No. 001-93)

18-6-8.1 The off-street standing spaces required by this Article may be stacked in one or more clearly delineated lanes which do not impede circulation on the site and shall be provided and maintained on the basis of the following requirements specified in the following table, except as otherwise provided in this Article:

<u>USE TYPE</u>	<u>REQUIRED SPACES</u>
Bank, Financial Institution	4 per first window or drive-up ATM plus 2 per each additional window or drive-up ATM
Car Wash-Self Serve	3 per bay
Car Wash-Automatic	8 per bay
Day Care, Nursery School	1 for each 8 children
Filling Station	1 space situated on each side of every dispenser island beginning at the end of the island and extending away from the island parallel to it
Restaurant, Deli, Bakery	5 per pick-up window with at least 3 located before each order station
Service Establishment (NEC) (e.g. dry clean, photo, ticket office, courier)	2 per window or station

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18-6-9 DEFERRAL OF REQUIRED PARKING FOR CERTAIN USES

For general office, storage uses, furniture stores and home improvement establishments, construction of up to one-third of the number of required off-street parking spaces may be deferred on the condition that all required parking shall be fully designed and depicted on the approved site plan in compliance with all applicable standards. The applicant shall, each October, measure the average utilization of existing parking spaces for two consecutive Saturdays at noon and report the same to the Administrator within two weeks. The Administrator may measure utilization over a similar period at any time, however. If utilization exceeds 85% then the applicant shall make arrangements to construct a quantity of additional parking within a timeframe established by the Administrator. (07/13/99, Case TA-99-01, Ord. No. 017-99; 10/13/09, Case TA-09-89, Ord. No. 2009-27)

18-6-9.1 SPECIAL PARKING PROVISIONS FOR REGIONAL MALLS

For regional shopping malls of at least 500,000 square feet, the off-street parking requirements shall be calculated using the gross leasable area (GLA) of the mall. Regional shopping malls that, at the time of occupancy, are situated on public transit routes and provide bicycle and/or pedestrian facilities, thus reducing demand for parking of personal automobiles, shall be allowed to provide a reduced minimum amount of off-street parking at a rate of one parking space for every 300 square feet of GLA. (11/14/06, Case TA-06-05, Ord. No. 033-2006; 10/13/09, Case TA-09-89, Ord. No. 2009-27)

18-6-9.2 WAIVERS. (10/13/09, Case TA-09-89, Ord. No. 2009-27)

The Administrator may waive off-street parking requirements for a single-family detached dwelling proposed on an existing lot of record, upon a determination that (i) the dwelling is not located on a corner lot, (ii) the lot on which the dwelling is located has no access to a public or private alley, and (iii) the lot has fewer than 30 feet of street frontage.

18-6-10 INOPERABLE MOTOR VEHICLE STORAGE. (5/9/06, Case TA-06-03, Ord. No. 21-2006)

18-6-10.1 No person shall keep, except within a fully enclosed building or structure or otherwise shielded or screened from view, on any property zoned for residential or commercial purposes, any inoperable motor vehicle, as defined in Section 1-2-52.1 of this Ordinance. "*Shielded or screened from view*" means not visible by someone standing at ground level from outside the property on which the subject vehicle is located. (2/12/08, Case TA-07-07, Ord. No. 2008-10)

18-6-10.2 The provisions of this Section shall not apply to a licensed business which on June 26, 1970 was regularly engaged in business as an automobile dealer, salvage dealer, or scrap processor. The exception for such licensed business shall only apply to such property on which the said property was operated on June 26, 1970, and on which said business has continued to operate without interruption.

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18-6-10.3 REMOVAL AND DISPOSAL OF INOPERABLE MOTOR VEHICLES; (2/12/08, Case TA-07-07, Ord. No. 2008-10)

- (a) The owners of property zoned for residential or commercial purposes not otherwise exempt in Section 18-6-10.2 shall remove therefrom any such inoperable motor vehicles that are not kept within a fully enclosed building or structure within fifteen (15) days of Notice of Violation. Notice given pursuant to this Section shall be sent by the Administrator, or his or her designee, using registered or certified mail, return receipt requested, to the owner of the premises on which such inoperable vehicle is located. The notice shall explain the violation, provide a description of the vehicle, and shall set forth the consequences of failing to comply. (2/12/08, Case TA-07-07, Ord. No. 2008-10)
- (b) The City of Winchester, through its agents or employees, may remove any such inoperable vehicle, whenever the owner of the premises, after reasonable notice, has failed to do so. In the event the City so removes any such inoperable motor vehicle after having given such reasonable notice, the City may dispose of such inoperable vehicle after giving thirty (30) days additional notice to the owner of the vehicle. (2/12/08, Case TA-07-07, Ord. No. 2008-10)

18-6-10.4 COST OF REMOVAL AND DISPOSAL OF INOPERABLE MOTOR VEHICLES; (2/12/08, Case TA-07-07, Ord. No. 2008-10)

- (a) The cost associated with removal and disposal of such inoperable motor vehicle shall be chargeable to the owner of the vehicle or premises, and maybe collected by the City of Winchester as taxes and levies are collected.
- (b) Every cost authorized by this Section with which the owner of the premises shall have been assessed shall constitute a lien against the property from which the vehicle was removed, the lien to continue until actual payment of such cost shall have been paid to the City.

SECTION 18-7 SPECIAL REGULATIONS PERTAINING TO THE PRIMARY AND SECONDARY DOWNTOWN ASSESSMENT DISTRICTS. (4/9/13, Case TA-13-35, Ord. No. 2013-08)

18-7-1 **USE OF SIDEWALKS.** The sidewalks in the Primary and Secondary Downtown Assessment Districts, as defined in Section [25-1](#) of the Winchester City Code, may be used by proprietors, owners, or tenants of businesses abutting the sidewalks, or outside vendors, subject to the provisions within this Section.

The permitted use of such sidewalks pursuant to this Section shall be considered a license and privilege that is authorized at the discretion of the City and shall not in any way be deemed to constitute a transfer of any property rights whatsoever from the City. The City reserves the right to reject or rescind any permit authorized in accordance with the provisions of this Article.

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18-7-1.1 Permit Required. Any person or business using the sidewalks in the Primary and Secondary Downtown Assessment Districts must first obtain a permit from the Administrator. The Administrator may consult with the Downtown Manager, Old Town Development Board, Board of Architectural Review, the Commissioner of the Revenue, Health Department, or any other such agencies deemed necessary prior to approving or denying the issuance of such permit, and may impose conditions upon the applicant which are deemed necessary to protect the Mall surface, sidewalks, street furniture, and appurtenances.

18-7-1.2 Insurance/Damages. The applicant for any such permit shall provide a Certificate of Insurance, which shall be currently maintained throughout the term of the permit, indicating that the City is an additional insured on a policy of liability insurance issued to the applicant by an insurance company licensed to do business in Virginia with a single limit of not less than \$1,000,000.

Property Damages: Any person or entity that has been issued a permit pursuant to this Article (hereinafter "Permittee") shall immediately notify the City of Winchester Facility Maintenance Director and Risk Manager of all damage to property for which a permit has been issued pursuant to this Article, including but not limited to: damages to utilities, finished surfaces, and trees.

Deliveries and Storage: It shall be the responsibility of the Permittee to make all arrangements for delivery, unloading, receiving and storing of materials to be placed inside the lessor's building. No shipments, goods, or products shall be stored in the areas for which a permit has been issued pursuant to this Article. The City of Winchester will not assume any responsibility.

Notification and Handling of an Insurance Claim: The Permittee shall be responsible for ensuring that all matters concerning insurance claims by third parties arising as a result of the acts and omissions of the lessor's operations or his subcontractors, are handled in a professional manner. To this end, the City expects the lessor to act responsibly with regard to prompt payment of valid insurance claims and upon notice of a claim, the lessor shall immediately notify the City's Risk Manager, investigate and document the claim, and make a liability determination within ten (10) business days. Pending subrogation between the lessor and/or sub-contractor and/or any insurance carrier will not be cause for delay in payment of a valid claim. Default of this provision may result in default this agreement and jeopardize the lessor's future lease with the City of Winchester.

18-7-1.3 Indemnification and Hold Harmless Agreement. The applicant for such permit shall provide a signed indemnification and hold harmless agreement, on a form approved by the City Attorney, in which the applicant agrees to indemnify and hold the City, its officers, agents, and employees, harmless from any claims for damages to person or property growing out of any activity with the applicant's activities conducted in connection with the permit herein described or caused by the operation or location of the activity on the City's property.

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- 18-7-1.4 Fee. A fee per Section [23-8-18](#) is required upon issuance of any such permit.
- 18-7-1.5 Duration. Any such permit issued shall be non-transferable and, shall be valid from January 1 through December 31 of each year, or for any part thereof except as otherwise revoked, rescinded or limited by the provisions of this Article. The application fee will remain the same regardless of the date received, and the fee will not be refunded or prorated based on the date of the application. Upon expiration or revocation of any such permit, the applicant must apply for a new permit to continue using the sidewalk.
- 18-7-1.6 Certificate of Appropriateness. All furniture, signs and other elements to be used on the sidewalks must receive a Certificate of Appropriateness per Article [14](#). For items subject to Administrative Review per Section 14-5, the permit application shall concurrently serve as application for the Certificate of Appropriateness.
- 18-7-1.7 Area Available for Use.
- a. Width. For businesses abutting the sidewalk, use of the sidewalk shall not exceed the width of the individual store front.
 - b. Depth.
 - 1) Primary Downtown Assessment District. No sidewalk area extending more than fifteen (15) from the abutting storefront toward the center line of Mall shall be used. However, in all cases, no use of area within a designated fire lane shall be permitted.
 - 2) Secondary Downtown Assessment District. No sidewalk area closer than five (5) feet to the curb shall be used. However, in all cases, a minimum clear path of travel of three (3) feet must be provided.
 - c. Outside Vendors. Availability of space to be determined in consultation with the Downtown Manager and in consideration of, but not limited to, the following factors: proximity to existing storefronts or doors; proximity to businesses trading in similar goods/services; ability to provide safe and convenient passage for passersby; and scheduled events.
- 18-7-1.8 Revocation of Permits. The Administrator may immediately revoke any permit specified in this Section if it is determined at the discretion of the Zoning Administrator that the conditions therein have not been met by the applicant. A permit may also be immediately revoked or suspended if it is determined at the discretion of the Administrator that the continued use of the space poses a threat to public health, safety, or welfare, or if such use is determined to be inconsistent with the best interests of the City of Winchester.

The Administrator may immediately revoke any permit specified in this Section if it is determined that the permit holder is not maintaining compliance with all applicable laws and regulations related to the use of the permitted space or if the permit holder fails to promptly respond to lawful requests by the Administrator related to the use of the permitted space.

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The use of the space described under this Chapter may also be temporarily suspended for Special Events. The City will make reasonable efforts to notify permit holders in advance so that all privately owned items including but not limited to tables, chairs, and barricades may be removed by the permit holder prior to such Special Events. Upon a permit holder's failure to timely remove the items, such items may be removed in accordance with 18-7-2.2(b).

18-7-2 **OUTDOOR DINING AREA.** As used herein, "outdoor dining area" shall mean any group of tables, chairs, benches, and suitable devices maintained for the purpose of sale and/or consumption of food, refreshments, and beverages of all kinds as an extension of a restaurant licensed under the Regulations of the Virginia Department of Health. Applicants for outdoor dining areas are encouraged to review the *Old Town Winchester Outdoor Dining Guidelines* as adopted by the Old Town Development Board.

18-7-2.1 In addition to the requirements in Section 18-7-1, applicants for an outdoor dining area must also submit:

- a. Health License. Evidence showing that the applicant has obtained a license to operate as a restaurant from the Virginia Department of Health. Such license shall be currently maintained throughout the term of the permit.
- b. ABC License. If alcoholic beverages are to be sold by the applicant, evidence that the applicant has a valid license for same issued by the Virginia Alcoholic Beverage Control Board, and that it specifically meets that Board's requirements for "outside terraces or patio dining area". Such license shall be currently maintained throughout the term of the permit.
- c. Site Sketch. A scaled plan indicating the location of the proposed dining area, the layout of tables, chairs, enclosure, etc. and all existing obstructions (fire hydrants, tree wells, planters, lamp posts, and public egress) in the area.
- d. Details. Details clearly indicating the materials, color, and construction of the enclosure, furniture, and all elements. Such details must include the methods in which the enclosure shall be supported. No enclosure or other elements shall be fastened to the sidewalk or adjoining buildings.

18-7-2.2 As a condition of obtaining and keeping a permit for an outdoor dining area, the applicant is deemed to have agreed to the following terms and conditions:

- a. All outdoor dining areas will be of such design so as to be easily removed for special events, snow removal, emergency access, or other circumstances which require that the sidewalks be cleared of all such dining areas, as determined by City Council or by the Chief of Police. A directive from the Chief of Police or the City Council to clear the area of all furniture, fixtures, decorations, etc., connected with the café operation shall be promptly complied with by the restaurant without question and without unnecessary delay, and the area shall remain cleared of such material until directed otherwise by City Council or the Chief of Police.
- b. Upon failure of the permit holder to remove such items upon reasonable Notice, the City is authorized to remove the items and require the permit holder to reimburse the City for the expense of such removal.

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- c. The entire area delineated for the outdoor dining area must be maintained in a neat and orderly fashion, whether or not the area is actually in use. When in use, the area shall be periodically cleaned throughout the business day, and, especially, at the end of each business day. All food shall be provided by waiter or waitress service, unless self-service operations are approved as a part of the permit. Extensions or enlargements of the area delineated beyond those described in the restaurant's application are expressly prohibited.
- d. All furniture, fixtures, enclosures, and all elements shall be periodically maintained so that they retain full function as well as present a neat, attractive appearance.
- e. The outdoor dining area shall operate only when the restaurant to which a permit has been issued is allowed to operate. In addition, the restaurant shall be responsible to see to it that patrons violate no laws of the Commonwealth or Ordinances of the City, to expressly include the City's Noise Ordinance. A business holding a permit shall have the right to limit access and occupancy to only bona fide paying customers, and shall have the same right to deny access or service in the outdoor dining area as it enjoys in its own premises, provided, however, that no person shall be denied access or service purely on the basis of race, religion, national origin, sex, age or physical disability.

18-7-3 **PORTABLE SIGN.** Portable signs shall not exceed six (6) square feet in area. Applicants for portable signs are encouraged to review the [Winchester Historic District Design Guidelines](#) as published by the Board of Architectural Review.

18-7-3.1 In addition to the requirements in Section 18-7-1, applicants for portable signs must also submit:

- a. Site Sketch. A scaled plan indicating the location of the proposed sign and all existing obstructions (fire hydrants, tree wells, planters, lamp posts, and public egress) in the area. Such sign generally shall not impede pedestrian traffic. In all cases, a minimum clear path of travel of three (3) feet must be provided.
- b. Details. Details clearly indicating the dimensions, materials, color, construction, etc. of the sign. Such details must include the method in which the sign shall be supported. No portable sign shall be fastened to the sidewalk or adjoining buildings.

18-7-4 **DISPLAY OF MERCHANDISE.** Businesses abutting sidewalks may apply to use such areas for the display of merchandise for the purpose of attracting customers into such businesses, and not expressly for the sale of such items on display. Such displays shall incorporate, or be representative of, merchandise that is regularly sold as part of the business.

18-7-4.1 In addition to the requirements in Section 18-7-1, applicants for display of merchandise must also submit:

- a. Site Sketch. A scaled plan indicating the location of the proposed display and all existing obstructions (fire hydrants, tree wells, planters, lamp posts, and public

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egress) in the area. Such display generally shall not impede pedestrian traffic. In all cases, a minimum clear path of travel of three (3) feet must be provided.

- b. Details. Details clearly indicating the materials, color, construction, etc. of any racks, tables, or other elements which shall be used to display merchandise. Such details must include the methods in which the display elements shall be supported. No elements shall be fastened to the sidewalk or adjoining buildings.
- c. Schedule for display. A description of the days, hours, and frequency of outdoor display.

18-7-5 **OUTSIDE VENDORS.** Vendors without an adjoining storefront and operating from carts or other portable vending apparatuses may apply for a permit to use sidewalk area in the Primary and Secondary Downtown Assessment Districts. As there are limited areas for such vendors to locate without conflicting with existing storefronts, all such vendors shall schedule a pre-application meeting with the Administrator to discuss the pending application. No such permit shall be issued unless it is determined that the design of the vending apparatus and its proposed use is compatible with the design and character of the District and shall be issued only for the vending of food and beverages, flowers, arts and crafts, handicrafts, and similar products and services.

18-7-5.1 In addition to the requirements in Section 18-7-1, applicants for permits as outside vendors must also submit:

- a. Health License. For food and beverage vendors, evidence showing that the applicant has obtained a license to operate as such from the Virginia Department of Health. Such license shall be currently maintained throughout the term of the permit.
- b. Site Sketch. A scaled plan indicating the location of the proposed vending apparatus and all existing obstructions (fire hydrants, tree wells, planters, lamp posts, and public egress) in the area. Such apparatus generally shall not impede pedestrian traffic. In all cases, a minimum clear path of travel of three (3) feet must be provided.
- c. Details. Details clearly indicating the materials, color, construction, etc. of the vending apparatus and any other elements which shall be used. Such details must include the methods in which the apparatus shall be supported. No apparatus or elements shall be fastened to the sidewalk or adjoining buildings.
- d. Schedule for vending. A detailed description of the specific dates and hours of vending proposed. Outside vendor fees will be determined based on the proposed schedule and shall not be refunded due to non-use of approved dates for any reason.

18-7-5.2 As a condition of obtaining and keeping a permit as an outside vendor, the applicant is deemed to have agreed to the following terms and conditions:

- a. The entire area delineated for the vending must be maintained in a neat and orderly fashion. When in use, the area shall be periodically cleaned throughout the business day, and, especially, at the end of each business day. Extensions or

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enlargements of the area delineated beyond those described in the application are expressly prohibited.

- b. The vending apparatus and all elements shall be periodically maintained so that they retain full function as well as present a neat, attractive appearance.
- c. The vendor may be moved from time to time or use prohibited at the discretion of the Administrator or Downtown Manager due to scheduled promotions or other special events being held in the District.

18-7-6 **SPECIAL EVENTS.** Special Events in the Primary and Secondary Downtown Assessment Districts shall be governed by the provisions of [Chapter 14, Article IX](#) of Winchester City Code.

SECTION 18-8. SIGNS.

18-8-1 **INTENT.** The intent of this Article is to establish limitations on signs in order to 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. (12/10/13, Case TA-13-138, Ord. No. 2013-14)

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:

- a. Any permanent sign four (4) square feet or less in area. (12/10/13, Case TA-13-138, Ord. No. 2013-14)
- b. Repainting without changing wording, composition, or color, or minor nonstructural repairs.
- c. Changing the wording of a sign that was erected in accordance with the provisions of this Article. (12/10/13, Case TA-13-138, Ord. No. 2013-14)

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- d. 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; 12/10/13, Case TA-13-138, Ord. No. 2013-14)
 - e. 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 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. (12/10/13, Case TA-13-138, Ord. No. 2013-14)
- 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. (12/10/13, Case TA-13-138, Ord. No. 2013-14)
- 18-8-3 SIGNS PERMITTED IN THE RB-1 DISTRICT. (7/10/90, Case TA-90-04, Ord. No. 026-90)
- 18-8-3.1 Building mounted signs limited to one (1) sign for each building on the premises, with sign area limited to a maximum of ten (10) square feet per sign. (7/10/90, Case TA-90-04, Ord. No. 026-90)
- 18-8-3.2 Directory signs, restricted to two (2) signs for each building on the premises with sign area limited to a maximum of two (2) square feet per sign. (7/10/90, Case TA-90-04, Ord. No. 026-90)
- 18-8-3.3 Freestanding signs limited to one (1) sign for each building on the premises, not exceeding twenty (20) square feet in area, and not extending higher than fifteen (15) feet. (7/10/90, Case TA-90-04, Ord. No. 026-90)
- 18-8-3.4 Projecting signs not exceeding one (1) sign for each building on the premises with sign area limited to a maximum of six (6) square feet per sign. No such sign shall extend more than six (6) feet from the plane of the building to which it is attached not closer than two (2) feet from the nearest curb line. (7/10/90, Case TA-90-04, Ord. No. 026-90)
- 18-8-4 SIGNS PERMITTED IN THE LR, MR, HR, HR-1, AND PUD DISTRICTS. (9/9/97, TA-97-07, Ord. No. 021-97; 3/8/05, TA-04-08, Ord. No. 007-2005)
- 18-8-4.1 One (1) sign not exceeding two (2) square feet in area for each dwelling unit. Such sign shall indicate only the name of the occupant and/or its location.
- 18-8-4.2 One (1) or more signs, not exceeding in the aggregate ten (10) square feet for the purpose of identifying a townhouse or multifamily dwelling building. (10/11/88, Case TA-88-07, Ord. No. 039-88)

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- 18-8-4.3 Signs for permitted commercial uses in the HR and PUD Districts shall be governed by the regulations for the PC District. (3/8/05, TA-04-08, Ord. No. 007-2005)
- 18-8-4.4 One (1) or more signs for publicly owned playing fields which are fully enclosed by permanent structures or fences, including signs bearing a message not appurtenant to the use of the facility. Such signs shall be erected in a manner to create a uniform appearance from the exterior of the playing field, shall be oriented for primary viewing by persons within the playing field where they are erected and messages shall be displayed on the playing field side only. Such signs shall be erected only upon approval by the body exercising management of the facility and shall not be erected until commencement of the sport season for which they are intended and shall be removed immediately following completion of such sport season. (2/9/93, Case TA-92-04, Ord. No. 004-93; 4/12/94, Case TA-94-04, Ord. No. 012-94)
- 18-8-5 SIGNS PERMITTED IN THE B-1 AND PC DISTRICTS.
- 18-8-5.1 Building Mounted Signs in the B-1 District. Signage shall be allowed on a basis of one (1) square foot of building mounted sign area (which includes projecting sign area) for each linear foot of building frontage, but not exceeding fifty (50) square feet in area for buildings located closer than one hundred (100) feet from a street line, and not exceeding one hundred (100) square feet in area for buildings set back one hundred (100) feet or more from a street line. Where frontage is on more than one street, each frontage shall be considered a separate frontage. (10/11/88, Case TA-88-07, Ord. No. 039-88; 3/8/05, TA-04-08, Ord. No. 007-2005)
- a. Projecting Signs. Projecting signs and signs attached to the bottom of a marquee or roof overhang shall not project more than six (6) feet from the building front nor closer than two (2) feet from the nearest curb line. Projecting signs shall not exceed six (6) square feet in area. (10/11/88, Case TA-88-07, Ord. No. 039-88)
- 18-8-5.2 Freestanding Signs in the B-1 District.
- a. Freestanding signs shall not exceed twenty (20) square feet in area, and shall not extend higher than twenty (20) feet except as per Section 18-8-5.2b for commercial centers. No more than one (1) freestanding sign shall be permitted for each building. (10/11/88, Case TA-88-07, Ord. No. 039-88; 3/8/05, TA-04-08, Ord. No. 007-2005)
- b. For commercial centers, no more than one (1) freestanding sign shall be permitted, limited in area to fifty (50) square feet, and shall not extend higher than twenty (20) feet. Such sign shall indicate only the name of the commercial center and/or a business use or a combination of business use within the center. No other freestanding signs shall be permitted. No freestanding sign shall project beyond the property line. (3/8/05, TA-04-08, Ord. No. 007-2005)

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18-8-5.3 Building Mounted Signs in the PC District. Signage shall be allowed on a basis of one (1) square foot of building mounted sign area (which includes projecting sign area) for each linear foot of building frontage, but not exceeding fifty (50) square feet. Where frontage is on more than one street, each frontage shall be considered a separate frontage. Signage shall not be internally illuminated.

- a. Projecting Signs. Projecting signs and signs attached to the bottom of a marquee or roof overhang shall not project more than six (6) feet from the building front. Projecting signs shall not exceed six (6) square feet in area. No sign shall project closer than two (2) feet to the property line.

18-8-5.4 Freestanding Signs in the PC District.

- a. Freestanding signs shall not exceed twenty-five (25) square feet in area, and shall not extend higher than eight (8) feet except per Section 18-8-5.4b for commercial centers. No more than one (1) freestanding sign shall be permitted for each building. No freestanding sign shall project closer than two (2) feet to the property line. Signage shall not be internally illuminated.
- b. For commercial centers, no more than one (1) freestanding sign shall be permitted, limited in area to fifty (50) square feet, and shall not extend higher than eight (8) feet. Such sign shall indicate only the name of the commercial center and/or a business use or a combination of business use within the center. No other freestanding signs shall be permitted. No freestanding sign shall project closer than two (2) feet to the property line. Signage shall not be internally illuminated.

18-8-6 SIGNS PERMITTED IN THE B-2, CM-1, M-1, AND M-2 DISTRICTS.

18-8-6.1 Building Mounted Signs. Signage shall be allowed on the basis of one and one-half (1 1/2) square feet of building mounted sign area for each linear foot of building frontage, but not exceeding two hundred (200) square feet in area. Where frontage is on more than one (1) street, each frontage shall be considered a separate frontage. (10/11/88, Case TA-88-07, Ord. No. 039-88)

18-8-6.2 Freestanding Signs. Freestanding signs permitted under this section shall be situated at least one hundred (100) feet apart from each other within the limits of the development. (11/12/96, Case TA-95-09, Ord. No. 030-96)

- a. Freestanding signage shall not exceed seventy-five (75) square feet, and shall not extend higher than twenty-five (25) feet. No more than one (1) freestanding signs shall be permitted for each main building on the premises, except as per Section 18-8-6.2b through 8-8-6.4 of this Ordinance. (10/11/88, Case TA-88-07, Ord. No. 039-88; 11/12/96, Case TA-95-09, Ord. No. 030-96)

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- b. For commercial centers and buildings housing more than three (3) tenants, freestanding signage shall be permitted on the following basis. (12/8/87, Case TA-87-08, Ord. No. 043-87; 11/12/96, Case TA-95-09, Ord. No. 030-96)
1. One sign for every one thousand, two hundred (1200) linear feet of public street frontage. The first such sign shall not exceed one hundred fifty (150) square feet in area nor thirty (30) feet in height, and any additional such signs shall not each exceed seventy-five (75) square feet in area nor twenty-five (25) feet in height; OR,
 2. One sign for each public street frontage. The first such sign shall not each exceed seventy five (75) square feet in area nor twenty-five (25) feet in height, and any additional such signs shall not each exceed fifty (50) square feet in area nor twenty (20) feet in height; OR,
 3. One sign for each Main Building within the limits of the development. Such sign(s) shall not each exceed twenty- five (25) square feet in area nor six (6) feet in height. For Commercial Centers with at least five hundred (500) linear feet of public street frontage, one sign not exceeding fifty (50) square feet in area nor twenty-five (25) feet in height shall be permitted in addition to the low rise signage.
- c. For regional shopping centers with a floor area of more than five hundred thousand (500,000) square feet, one freestanding sign shall be permitted for each entrance into the shopping center from a public street. Such signs shall indicate only the name of the shopping center and/or business uses within the center. One sign may be two hundred (200) square feet in area, and shall not extend higher than thirty (30) feet. All other freestanding signs shall be limited in area to seventy-five (75) square feet, and shall not extend higher than twenty-five (25) feet. No other freestanding signs shall be permitted, except that an individual enterprise with a direct access to a highway defined as a thoroughfare street in the Comprehensive Plan shall be permitted one (1) freestanding sign not to exceed seventy-five (75) square feet in area, and limited in height to twenty-five (25) feet. In addition, when a regional shopping center as defined above is adjacent to the Interstate Route 81 right-of-way, one (1) sign not exceeding three hundred (300) square feet in area, not extending higher than seventy-five (75) feet, and not projecting beyond the property line, shall be allowed.
- 18-8-6.3 No sign shall project closer than five (5) feet to the property line. (11/12/96, Case TA-95-09, Ord. No. 030-96)
- 18-8-6.4 For commercial uses located not more than one thousand (1000) feet from the center line of the Interstate Route 81 right-of-way where it intersects with the center line of the right-of-way of any highway that provides entrances and exits to the Interstate

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Highway, one (1) permitted freestanding sign in Section 18-8-6.2a may be replaced with one (1) high rise sign, not exceeding two hundred (200) square feet in area and not extending higher than seventy-five (75) feet.

- 18-8-6.5 For commercial centers with at least 800 linear feet of frontage on the right-of-way of Interstate 81 that are in the CM-1 District, except regional shopping centers as provided for in Section 18-8-6.2c, one (1) permitted freestanding sign in Section 18-8-6.2b may be replaced with one (1) freestanding sign not exceeding 200 square feet in area nor 40 feet height. Such sign shall be no further than 100 feet from the Interstate right-of-way line; shall be no closer than 300 feet to a freestanding sign on an adjacent commercial center; and shall be at least 1,000 feet from residentially zoned land. (04/14/98, TA-97-12, Ord. No. 008-98)
- 18-8-7 SIGNS PERMITTED IN THE RO-1 DISTRICT.
- 18-8-7.1 Freestanding Signage, limited to one (1) for each building on the premises, and limited to a maximum sign area of twenty-five (25) square feet. Such signs shall not extend higher than six (6) feet, except on properties which are also designated within the Historic Winchester (HW) District in which case signs shall not extend higher than twelve (12) feet. No sign shall be internally illuminated. (5/8/90, Case TA-90-01, Ord. No. 016-90; 7/12/11, Case TA-11-222, Ord. No. 2011-20)
- 18-8-7.2 Building Mounted Signs, limited to one (1) for each building on the premises, with sign area limited to a maximum of ten (10) square feet.
- 18-8-7.3 Directory Signs, restricted to two (2) signs for any building. Such signs shall not exceed two (2) square feet per person or office listed on the sign.
- 18-8-8 SIGNS PERMITTED IN HS DISTRICT. (6/12/90, Case TA-89-11, Ord. No. 018-90)
- 18-8-8.1 Signs for residential uses are regulated by Section 18-8-4.
- 18-8-8.2 Wall or projecting signs identifying specific entrances to a principal health services building. Such signs shall not exceed ten (10) square feet in area each.
- 18-8-9 SIGNS PERMITTED IN THE MC DISTRICT
- 18-8-9.1 Building Mounted Medical Center Signs. Signage shall be allowed on the basis of square footage determined from calculating either Effective Building Frontage or Actual Building Frontage. Effective Building Frontage shall mean a lineal measurement of the effective length of the affected building based on the viewable frontage where a building mounted sign will be seen. Actual Building Frontage shall mean a lineal measurement of the actual physical length of the building wall/face on which the building mounted sign is to be mounted. See diagram (Diag. 18-8-9.1a.1 & Diag. 18-8-9.1a.2) below for clarification. Each shall be used in creating a base maximum area

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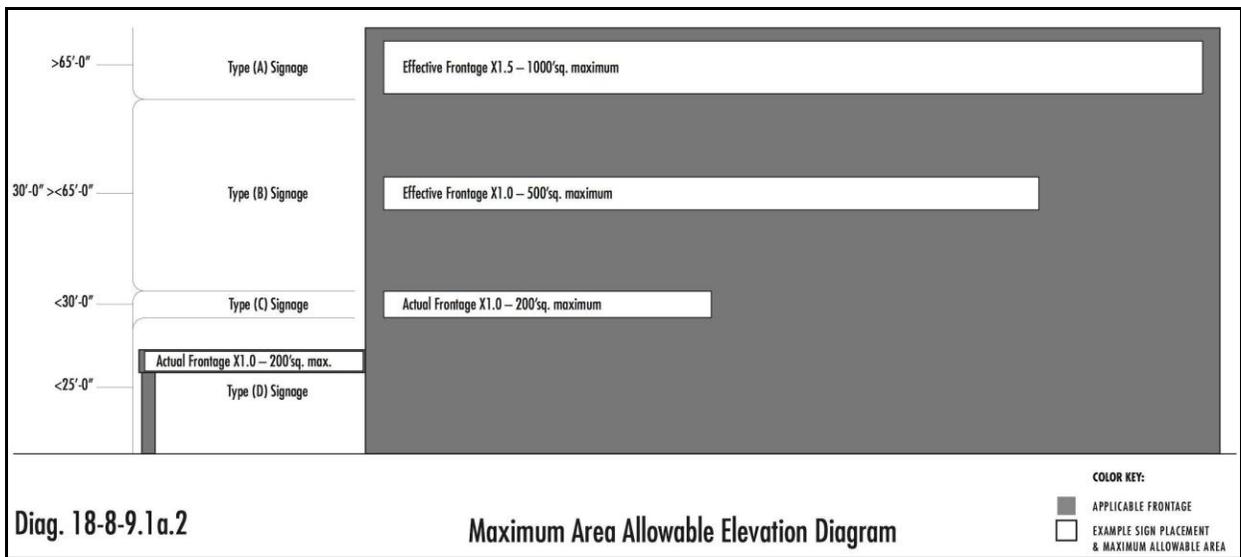
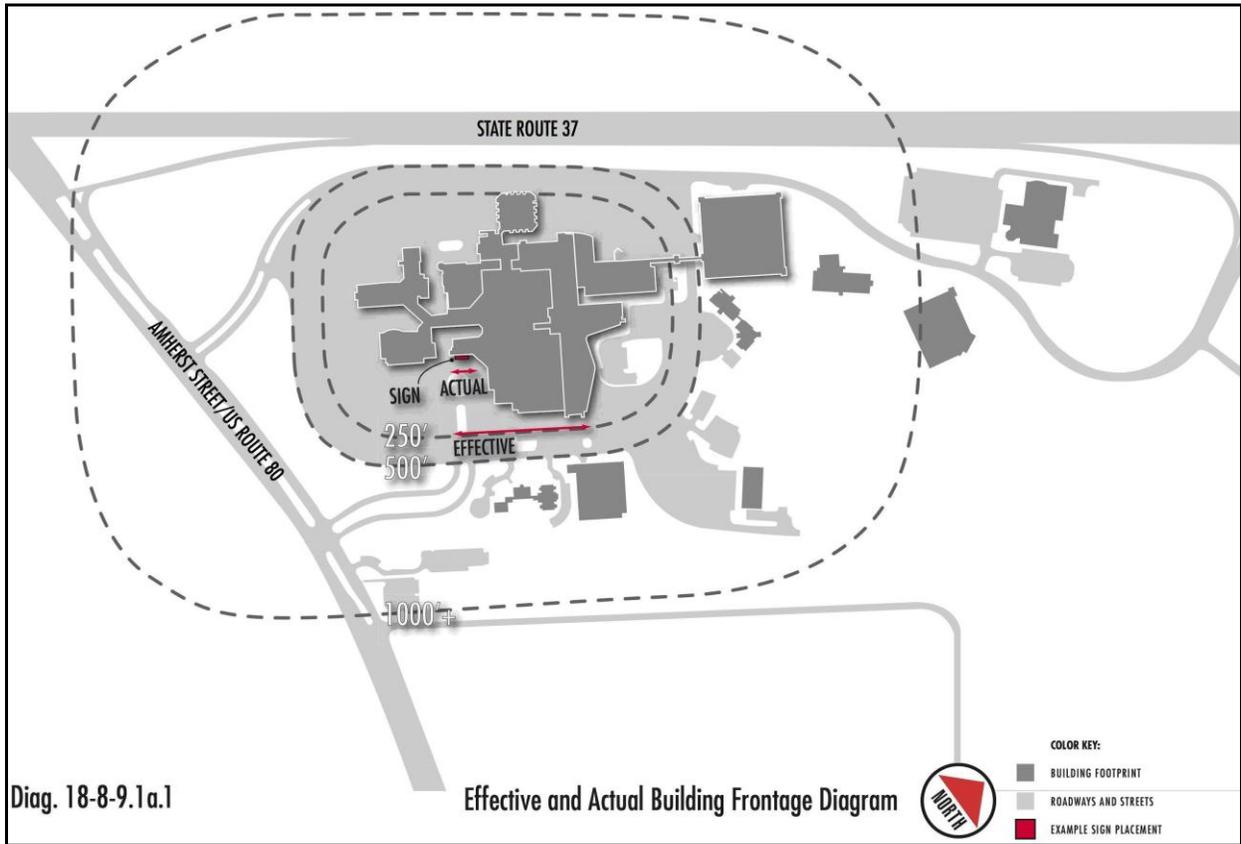
allowable for building mounted signs as follows: (8/9/11, Case TA-11-303, Ord. No. 2011-35)

- a. For building mounted signs bearing district branding in the form of logo and/or title, the allowable area shall be determined by modifying the effective building frontage by a factor of 1.5. Such signs may not be wall mounted below a height of 65'-0" above grade, and may not exceed one thousand (1000) square feet in area. *No more than one (1) such sign shall be allowed per Effective Frontage.*
- b. For building mounted signs higher than two stories, the allowable area shall be determined by the effective building frontage as a direct relation to square footage. Such signs may not be wall mounted below a height of 30'-0" and no higher than 65'-0" above grade, and may not exceed five hundred (500) square feet in area. *No more than one (1) such sign shall be allowed per Effective Frontage in addition to that listed above.*
- c. For building mounted signs two stories or less in height, the allowable area shall be determined by the actual building frontage as a direct relation to square footage. Such signs may not be wall mounted higher than 30'-0" above grade, and may not exceed two hundred (200) square feet in area. *No more than one (1) such sign shall be allowed per Actual Frontage in addition to that listed above.*
- d. For canopy mounted signs, the allowable area shall be determined by the actual frontage of the canopy from the side which the sign will be viewed as a direct relation to square footage. Such signs may not be mounted higher than 25'-0" above grade, and may not exceed one hundred (100) square feet in area. *No more than one (1) such sign shall be allowed per Actual Frontage in addition to that listed above.*

Table 18-8-9.1a.

	HEIGHT	FRONTAGE/FACTOR	MAX SQ. FT.	IDEAL VIEW DIST.
Building mounted identification w/brand	>65'-0"	Effective x1.5	1000' sq.	~1000'
Building mounted identification (>2 story)	30'-0" >< 65'0"	Effective x1.0	500' sq.	~500'
Building mounted identification (<2 story)	<30'-0"	Actual x1.0	200' sq.	~500'
Canopy mounted identification	<25'-0"	Canopy Actual x1.0	100' sq.	~250'

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- 18-8-9.2 Freestanding Signs.
- a. Freestanding signs, unless otherwise specified, shall not exceed seventy two (72) square feet in area, and shall not extend higher than twenty (20) feet. No more than one (1) freestanding sign shall be permitted for each building. Additional signs not exceeding seventy two (72) square feet in area and twenty (20) feet in height shall be permitted when such signs provide directional assistance for multiple destinations. No free standing sign shall project beyond the property line. (9/9/08, Case TA-08-06, Ord. No. 2008-39)
 - b. No more than one (1) freestanding sign shall be permitted for a general hospital, limited in area to fifty (50) square feet, and shall not extend higher than twenty-five (25) feet. No freestanding sign shall project beyond the property line.
 - c. For the purpose of identifying a medical center in which a general hospital is located one (1) freestanding sign shall be limited for each entrance to the medical center from a public street or right of way. The freestanding signs shall be limited in area to one hundred sixty (160) square feet and shall not extend higher than twenty-five (25) feet. Such sign shall indicate only the name of the medical center and/or a general hospital within the center and/or the location of an emergency medical facility. No freestanding sign shall project beyond the property line. (8/11/87, Case TA 87-04 Ord. No. 025-87; 9/9/08, Case TA-08-06 Ord. No. 2008-39)
- 18-8-9.3 Repealed. (1/9/97, Case TA-97-11, Ord. No. 034-097)
- 18-8-9.3a Repealed. (1/9/97, Case TA-97-11, Ord. No. 034-097)
- 18-8-9.4 Navigational Signs.
- a. Navigational signs for the purpose of identifying a heliport shall be exempt from regulation.
- 18-8-10 SIGNS PERMITTED IN THE HE-1 AND EIP DISTRICTS. (9/9/97, TA-97-07, Ord. No. 021-97)
- 18-8-10.1 Signs identifying an educational, institutional, or public/semi-public facility, limited to one (1) sign per entrance to said facility. Such signs shall not exceed fifty (50) square feet in area each. (9/9/97, TA-97-07, Ord. No. 021-97)
- 18-8-10.2 Repealed. (1/9/97, Case TA-97-11, Ord. No. 034-097)
- 18-8-10.3 Wall Mounted Directory Signs. Such signs shall not exceed two (2) square feet in area per person or office listed on the sign.

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- 18-8-11 SIGNS PERMITTED IN THE HW DISTRICT. No sign shall be erected or altered in the Historic Winchester (HW) District until a Certificate of Appropriateness has been issued by Zoning Administrator or the Board of Architectural Review, unless otherwise provided in this Ordinance. These signs are subject to the provision 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; 12/10/13, Case TA-13-138, Ord. No. 2013-14)
- 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. (12/10/13, Case TA-13-138, Ord. No. 2013-14)
- 18-8-12 SIGNS PERMITTED IN ALL DISTRICTS. The following signs shall be permitted in all districts. 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; 12/10/13, Case TA-13-138, Ord. No. 2013-14)
- 18-8-12.1 Temporary signs, which shall be non-illuminated and 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 (12/10/13, Case TA-13-138, Ord. No. 2013-14):
- a. Construction Signs. 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 eight (8) 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.

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- 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.
- 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.
- 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, university campus or similar development, provided that such signs do not exceed ten (10) square feet and are securely affixed to a building or pole on private property, at least fifty (50) feet shall be provided between any two such signs.

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- 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

<u>Type</u>	<u>Maximum Size</u>	<u>Maximum Height</u>	<u>Maximum Number</u>
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	10 SF	None	None
Incidental Price or Advertising Sign	2 SF	None	None

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 requirements shall be permitted. (12/10/13, Case TA-13-138, Ord. No. 2013-14)

- a. Temporary advertising signs on display no more than thirty (30) days per quarter.

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- 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 per quarter, 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.

Table 18-8-12.3

<u>Type</u>	<u>Maximum Size</u>	<u>Maximum Height</u>	<u>Maximum Number</u>
Temporary Advertising 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

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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; 12/10/13, Case TA-13-138, Ord. No. 2013-14)
- 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.

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- 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. (12/10/13, Case TA-13-138, Ord. No. 2013-14)
 - 18-8-13.4 Any sign or device , whether or not 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. (12/10/13, Case TA-13-138, Ord. No. 2013-14)
 - 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. (12/10/13, Case TA-13-138, Ord. No. 2013-14)

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- 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)
- 18-8-14.5 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. (12/10/13, Case TA-13-138, Ord. No. 2013-14)
- 18-8-15 NONCONFORMING SIGNS.
- 18-8-15.1 Signs, other than outdoor advertising signs, which do not conform to the regulations and restriction prescribed for the zoning district in which they are situated, but which were erected in accordance with all applicable regulations in effect at the time of their erection may remain erected only so long as the then existing use which they advertise remains.
- 18-8-15.2 No nonconforming sign shall be altered except in conformity with the provisions of this Article.
- 18-8-15.3 Permanent nonconforming freestanding signage, other than outdoor advertising signs, may be altered if said alteration reduces the total permanent nonconforming freestanding sign area by at least fifteen (15) percent. In cases involving commercial centers or sites with more than one permanent nonconforming freestanding sign, the reduction in area may be achieved either by: a) reducing the square footage of the

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individual altered sign by at least fifteen (15) percent: or, b) reducing the aggregate square footage of all permanent nonconforming freestanding signage by at least fifteen (15) percent.

- 18-8-15.4 If a nonconforming sign is damaged to an extent greater than fifty (50) percent of the cost of reconstructing the sign to its condition before the occurrence, it shall not be rebuilt.(10/9/01, Case No. TA-01-05, Ord. No. 034-2001)
- 18-8-16 **ABANDONED SIGNS.** A sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer on the premises. If the owner or lessee fails to remove it, the Zoning Administrator shall give the owner thirty (30) days' notice in writing to remove said sign.
- 18-8-17 **DILAPIDATED SIGNS.** All signs shall be maintained in good working condition so as to present a neat and orderly appearance. The Zoning Administrator may cause to be removed any sign which shows gross neglect or which becomes dilapidated.
- 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

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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, 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, 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. (12/10/13, Case TA-13-138, Ord. No. 2013-14)
- 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. (12/10/13, Case TA-13-138, Ord. No. 2013-14)
- 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. (12/10/13, Case TA-13-138, Ord. No. 2013-14)

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- 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. (12/10/13, Case TA-13-138, Ord. No. 2013-14)
- 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. (12/10/13, Case TA-13-138, Ord. No. 2013-14)
- 18-8-18.16 Real Estate Sign. A sign advertising the sale, lease, or rent of the property upon which the sign is located. (12/10/13, Case TA-13-138, Ord. No. 2013-14)
- 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. (12/10/13, Case TA-13-138, Ord. No. 2013-14)
- 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. (12/10/13, Case TA-13-138, Ord. No. 2013-14)
- 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. (12/10/13, Case TA-13-138, Ord. No. 2013-14)
- 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. (12/10/13, Case TA-13-138, Ord. No. 2013-14)

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SECTION 18-9. SPECIAL REGULATIONS REGARDING YARDS

- 18-9-1 YARDS AND OPEN SPACE. No yard or other space provided about any building for the purpose of complying with the provisions of this Ordinance shall be considered as providing a yard or other open space for any other building, and no yard or other open space on one (1) lot shall be considered as providing a yard or open space on any other lot.
- 18-9-2 YARD ENCROACHMENTS. Every part of every required yard shall be open and unobstructed from the ground to the sky except as hereinafter provided or as otherwise permitted in this Ordinance:
- 18-9-2.1 Unenclosed porches, decks, or terraces not over three (3) feet above the ground except for railings and roof structures, may extend five (5) feet into a required front yard or corner side yard, ten (10) feet into a required rear yard, and three (3) feet into a required non-corner side yard, provided that any such structure having a roof shall not extend into any required yard area to a greater distance than one-half (1/2) the required yard depth or width. (8/16/02, Case TA-02-02, Ord. No. 010-2002)
- 18-9-2.2 An open, unenclosed paved terrace may project into the required front yard for a distance not exceeding ten (10) feet.
- 18-9-2.3 Chimneys, fireplaces, or pilasters may not project over two (2) feet into a required yard.
- 18-9-2.4 Handicap accessibility ramps and steps and staircases without roofs may extend into required yards as follows: Any portions with not more than nine (9) feet of reveal between any step or point on a ramp and the closest point of grade surrounding it may extend four (4) feet into a required front, corner side or rear yard; Any portions with not more than five (5) feet of reveal between any step or point on a ramp and the closest point of grade surrounding it may extend eight (8) feet into a required front, corner side or rear yard and five (5) feet into a required non-corner side yard provided they do not extend into any required yard to a greater distance than one-half (1/2) the required yard depth or width. Any portions with less than two (2) feet of reveal between any point on the steps or point on a ramp and the closest point of grade surrounding it may extend into any required yard. (8/16/02, Case TA-02-02, Ord. No. 010-2002; 1/13/04, Case TA-03-04, Ord. No.002-2004)
- 18-9-2.5 An unenclosed carport, attached to a dwelling, may extend into any required side yard a distance of not more than five (5) feet but not nearer to any side lot line than a distance of five (5) feet.
- 18-9-2.6 Trash and recycling enclosures may extend into any required rear and side yard but not nearer to any rear or side lot line than a distance of three (3) feet, except for enclosures serving nonresidential uses when adjacent to a residentially zoned lot, in which case a minimum of fifteen (15) feet of separation shall be provided. (1/9/01, Case TA-00-10, Ord. No. 003-2001)

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- 18-9-2.7 Utility boxes, transformers and similar structures which do not create noise, odor, glare, vibration, light, dust or excessive heat and which are less than six (6) feet in height, may be installed in any required rear or side yard. (1/9/01, Case TA-00-10, Ord. No. 003-2001; 8/16/02, Case TA-02-02, Ord. No. 009-2002)
- 18-9-2.8 Fences and non-retaining walls up to eight (8) feet in height above surrounding grade, may be installed in any required rear or non-corner side yard. Fences up to four (4) feet in height above surrounding grade which are at least twenty-five (25) percent open (e.g. picket, chain link, rail, etc.) and non-retaining walls up to three (3) feet in height above surrounding grade may be installed in any required front or corner side yard except as per Section 18-12 of this Ordinance. On double-frontage residential lots, fences up to six (6) feet in height above surrounding grade may be installed in the one required front yard that is situated between a public street and the rear elevation of the main building on the lot provided that they are set back from the public right of way at least three (3) feet plus one (1) additional foot of setback for every one (1) additional foot of height above four (4) feet. (8/16/02, Case TA-02-01, Ord. No. 009-2002)
- 18-9-2.9 Retaining walls up to eight (8) feet in height above surrounding grade may be installed in any required rear or non-corner side yard, provided that any retaining wall over three (3) feet in height shall include a railing, fence or hedge at least thirty-six (36) inches high along the top to protect persons from injury due to falling. Retaining walls up to three (3) feet in height above surrounding grade may be installed in any required front or corner side yard except as per Section 18-12 of this Ordinance. (8/16/02, Case TA-02-01, Ord. No. 009-2002)
- 18-9-2.10 No person shall erect or maintain a fence, wall or other barrier wholly or partially enclosing any lot or premises within the city on a property that is zoned LR, MR, HR, or HR-1, where such fence, wall or barrier is made of, or includes, barbed ends, barbed wire or razor wire, or any similar materials, unless such fence is specifically approved for a use permitted through the Conditional Use Permit process. (10/12/10, Case TA-10-386, Ord. No. 2010-50)

SECTION 18-10. ACCESSORY USES AND STRUCTURES.

- 18-10-1 In all districts, accessory buildings or structures shall not be located in a front or side yard, unless specifically provided for elsewhere by the provisions of this Ordinance. (5/8/90, Case TA-90-01, Ord. No. 016-90)
- 18-10-2 Accessory structures shall not exceed twelve (12) feet in height on any property located in a residential district outside of the delineated boundaries of the Winchester Historic Overlay District. Notwithstanding any other provisions within this Ordinance, accessory structures which meet the side and rear yard requirements for the district shall not exceed the height of the existing main building or the height limit for the residential district in which the structures are located, whichever is less. (3/11/08, Case TA-07-08, Ord. No. 2008-13)

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- 18-10-2.1 Exceptions to the permitted building height of accessory structures located within the required side and/or rear yard areas shall only apply to residential properties improved with single-family detached dwelling units which were constructed in 1930 or prior thereto, and are located within the Winchester Historic Overlay District, as defined in Section 14-1 of this Ordinance. In these cases, appropriate building heights for accessory structures shall be determined by the Board of Architectural Review through the Certificate of Appropriateness process outlined in this Ordinance. The Zoning Administrator may allow heights of accessory structures to extend to maximum height of eighteen (18) feet when the following findings can be made in writing:
- a. The additional height is necessary to allow architectural integrity and harmony between the accessory structure and the principle structure, as determined by the Board of Architectural Review; and,
 - b. An Accessory Structure height of eighteen (18) feet will not result in adverse conditions to adjoining properties nor will it prove injurious to public health or safety; and,
 - c. All other requirements of the Zoning Ordinance and the Uniform Statewide Building Code have and will be met. (3/11/08, Case TA-07-08, Ord. No. 2008-13)
- 18-10-3 Fences and walls (both retaining and non-retaining) up to five (5) feet in height above surrounding grade may be permitted in non-required front and corner side yards except as per Section 18-12 of this Ordinance and provided that any retaining wall over three (3) feet in height shall include a railing, fence or hedge at least thirty-six (36) inches high along the top to protect persons from injury due to falling. (8/16/02, Case TA-02-01, Ord. No. 009-2002)
- 18-10-4 No setback from side or rear lot lines shall be required. (10/11/83, Case 83-06, Ord. No. 034-83)
- 18-10-5 Steps and staircases shall be permitted in any non-required yard. (8/16/02, Case TA-02-02, Ord. No. 009-2002)
- 18-10-6 Accessory buildings permitted in rear yards of residential districts shall not occupy a combined total area of more than thirty (30) percent of said yard. (5/8/90 Case TA-90-01, Ord. No. 016-90)
- 18-10-7 Except as provided for in Section 18-10-8, no accessory building shall be constructed upon a lot until the construction of a main building has actually commenced; and no accessory building shall be used unless the main building on a lot is completed and used, except that in the LR, MR, and HR districts one accessory building may be located on a parcel on which no main building exists if such parcel is immediately adjacent to a parcel on which a single family dwelling is located and both parcels are under common ownership. Such accessory building shall be for a use accessory to the main building and shall be located in the rear yard. The rear yard for the parcel without a main

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building is defined as being equal to the rear yard for the immediately adjacent commonly owned parcel on which a main building is located. In no case may the accessory building encroach into the front setback or corner side yard for the parcel on which the accessory building is located. (5/8/90, Case TA-90-01, Ord. No. 016-90; 10/12/10, Case TA-10-418, Ord. No. 2010-51)

- 18-10-8 The following accessory uses and structures shall be permitted on a lot that has been approved for use as a community garden or market garden:
(10/12/10, Case TA-10-418, Ord. No. 2010-51)
- 18-10-8.1 Hoophouses, cold-frames, and similar planting preparation houses, temporarily used to extend the growing season;
- 18-10-8.2 Benches, bike racks, raised/accessible planting beds, compost bins, picnic tables, seasonal farm stands, fences, garden art, rain barrel systems, and children's play areas;
- 18-10-8.3 Buildings, limited to tool sheds, greenhouses, shade pavilions, barns, rest-room facilities with composting toilets, and planting preparation houses; provided that the combined area of all buildings shall not exceed fifteen percent (15%) of the garden site lot area.
- a. Buildings associated with community gardens and market gardens shall be set back from side and rear property lines of any property located in a residentially-zoned district a minimum distance of five (5) feet; and,
 - b. Buildings shall not be located within a required front or corner-side yard.
- 18-10-9 Donation Drop-off Boxes (1/8/13, Case TA-12-473, Ord. No. 2012-36)
- a. Donation drop-off boxes shall be permitted in all zoning districts provide they are located on a property that contains a place of worship or building containing a charitable use as a permitted primary use.
 - b. Donation drop-off boxes shall not be located in any provided front or corner-side yard, nor located in any required side yard.
 - c. Donation drop-off boxes shall not obstruct pedestrian or vehicular circulation, nor be located in public rights-of-way, landscape areas, required parking spaces, fire lanes, loading zones, or any other location that may cause hazardous conditions, constitute a threat to the public safety, or create a condition detrimental to surrounding land uses.
 - d. Donation drop-off boxes shall be clearly marked to identify the specific items and materials requested to be left for donation, the name of the operator or owner of the container, the entity responsible for maintenance of the drop-off box and removal of materials and trash from the immediate area, and a telephone number where the owner, operator or agent may be reached at any time.

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- e. No more than two donation drop-off boxes shall be located on any property, and each donation drop-off box shall have a capacity of no larger than six (6) cubic yards and a maximum height of seven (7) feet.
- f. Landscape screening in conformance with Section 19-5-6.4 shall be installed if the donation drop-off box is located within fifteen (15) feet of a residentially used property.
- g. Prior to placement of a donation drop-off box on a property, a zoning permit and site sketch shall be submitted to and approved by the Zoning Administrator to ensure compliance with all provisions of this section.
- h. Sections (a.) and (f.) shall not be applicable to properly maintained donation drop-off boxes installed by a local charitable or religious place of worship, placed on other properties with permission.

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

SECTION 18-12. VISUAL OBSTRUCTION.

18-12-1 On a corner lot in any district other than the Central Business District, B-1, no obstructions between two and one-half (2 1/2) feet and eight (8) feet above the street grade level shall be maintained in the area bounded by the curb line, or edge of pavement where there are no curbs adjacent to such corner lots, and a line joining points along said lines twenty-five (25) feet from the point of intersection. This section shall not apply to light poles, utility poles, or sign poles. (6/12/90, Case TA-89-11, Ord. No. 018-90; 8/16/02, Case TA-02-01, Ord. No. 009-2002)

SECTION 18-13. DRAINAGE. (8/13/85, Case 85-02, Ord. No. 011-85)

18-13-1 No building shall be erected on any land and no change shall be made in the existing contours of any land, including any change in the course, width, or elevation of any natural or other drainage channel, in any manner that will obstruct, interfere with, or substantially change the drainage from such land to the detriment of neighboring lands. Factors to be considered in determining substantial change shall include the recommendations of the Winchester Storm Drainage Study and adopted storm drainage standards of the Virginia Department of Transportation. In his administration of this requirement, the Zoning Administrator shall refer any application submitted to him to the Public Services Director for a determination in the matter.

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- 18-13-2 Development within a drainage shed involving a change of land use is normally associated with an increase in impervious area resulting in a greater quantity as well as a more rapid and frequent concentration of stormwater runoff. The construction of storm drainage improvements is required along waterways as development progresses in order to alleviate flood damage and arrest deterioration of existing drainageways. The extent and character of such improvements shall be designed to provide for the adequate correction of deficiencies. Improvements shall extend downstream to a point where damages to existing properties from additional runoff will be minimized. The purpose and intent is to require a subdivider or developer of land to construct needed storm drainage facilities or to pay his pro rata share of the cost of providing reasonable and necessary drainage facilities located outside the property limits of the land owned or controlled by the subdivider or developer but necessitated or required, at least in part, by the construction or improvement of his subdivision or development.
- 18-13-3 Where the developer requests that he may be permitted to contribute his share of the cost toward the correction of off-site storm drainage deficiencies in lieu of constructing the required improvements, the City may accept such contribution towards their correction or the City may require that the developer construct the improvement required to make such corrections.
- 18-13-4 Where a developer is permitted to either construct or provide the funds for the construction of more than his pro rata share of the downstream off-site drainage improvements so that he may proceed with the improvement of his land without damaging the properties of others, the City will endeavor to collect, on a pro rata basis, any funds expended beyond his proportionate share from other properties within the drainage shed served by such drainage improvements when such properties are developed within a period of ten years from the date that the drainage improvements are financed or constructed. These funds shall be returned to the initial developer or his assigns only if collected by the City from the subsequent developers. The initial developer has right of action to recover from a subsequent developer his pro rata cost for his use of the facilities installed by the initial developer.
- 18-13-5 CALCULATION OF PRO RATA COST.
- 18-13-5.1 When directed to do so by the City Manager, the Public Services Director or his designee shall study and compute the total estimated cost of ultimate drainage facilities required to serve a drainage shed when and if such drainage shed is fully developed in accordance with the adopted Comprehensive Plan and Zoning Ordinance for the City. The computation of estimated costs shall include any engineering studies for the drainage. The total estimated cost of storm drainage construction, and easement and flood plain easement acquisition costs where necessary, shall also be included. When this total cost is computed, it shall be updated every six months by applying the Engineering New-Record cost index factor to the construction costs. The above study with its attendant cost figures shall constitute the general drainage improvement program for the affected drainage shed.

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18-13-5.2 When a general drainage improvement program has been established, a pro rata share of the total cost of the program shall be determined as follows:

1. The estimated increased volume of storm water runoff for the drainage shed, when fully developed in accordance with the adopted Comprehensive Plan and Ordinance, shall be computed.
2. The increased volume of storm water runoff caused by a subdivision or other development shall be computed.
3. The ratio of the volume of storm water runoff caused by a subdivision or other development to the estimated total volume of storm water runoff for the drainage shed, expressed as a percentage shall be applied to the total cost of the drainage improvement program for the drainage shed. The resultant figure shall be the pro rata share for the subdivision or development.

18-13-6 PAYMENT OF PRO RATA SHARE. The payment of the pro rata share shall be due prior to the approval of the plans for a subdivision. Where a subdivision has been previously approved or where the subdivision of land does not occur, the payment of the pro rata share shall be prior to the issuance of any building permits.

SECTION 18-14. ERECTION OF BUILDINGS.

Every building hereafter erected shall be located on a lot as herein defined, said lot having its principal frontage on a public street of record, except as otherwise permitted in this Ordinance for townhouses and planned development.

SECTION 18-15. OBSTRUCTION OF PUBLIC RIGHT-OF-WAY.

Unless explicitly permitted elsewhere in this Ordinance, no building, structure, sign, merchandise, or other obstruction shall be located or conducted on any public right-of-way. (4/9/13, Case TA-13-35, Ord. No. 2013-08)

SECTION 18-16. NUISANCES.

Nothing shall be allowable on the premises in any district, provided for in this Ordinance, that shall be in any way offensive or noxious by reason of the emission of odors, fumes, dust, smoke, light, vibration, or noise. Nor shall anything be constructed or maintained that would in any way constitute an eyesore or nuisance to adjacent property owners or residents or to the community.

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SECTION 18-17 MOBILE HOME, MOBILE OFFICE, MOBILE SALES UNIT, AND MOBILE STORAGE UNIT TEMPORARY PERMITS (hereinafter known collectively as mobile units) (1/13/98, Case TA-97-10, Ord. No. 001-98)

- 18-17-1 No mobile units shall be located within the corporate limits of the City unless specifically permitted by this Ordinance. However, Section 18-17 shall not apply to mobile homes or mobile offices temporarily used at construction sites by contractors or subcontractors for non-dwelling purposes. (1/13/98, TA-97-10, Ord. No. 001-98)
- 18-17-2 The Administrator may, upon application by a property owner or lessee, grant a temporary permit to locate a mobile unit to be used for non-dwelling purposes. For purposes of this Section the term mobile storage unit shall include licensed or unlicensed tractor trailer trailers that are used for storage and remain on site for more than five (5) days as well as containers trucked to and unloaded at the site. A temporary permit shall not be issued until the Administrator determines that the location of the mobile unit meets the setback and yard requirements for a permanent structure in the applicable zoning district and that there is adequate parking, fire protection, pedestrian access, sight obstruction and separation from off-street parking areas. Mobile storage units shall occupy an area no larger than ten percent (10%) of the gross floor area of the primary use served by the unit or 400 square feet whichever is greater. A waiver of the off-street parking area paving requirements of this Ordinance may be granted by the Administrator when it can be shown that another material is more appropriate and adjoining streets or properties will not be adversely affected. In reaching such determinations, the Administrator may seek advice from appropriate City departments. The maximum time for the initial temporary permit for mobile units other than mobile storage units is one (1) year from the date of initial occupancy. The maximum time for the temporary permit mobile storage units is 120 days from the effective date of the permit. There shall be a minimum of 11 months between the issuance of one mobile storage unit permit and issuance of a new mobile storage unit permit associated with the same user. (1/13/98, Case TA-97-10, Ord. No. 001-98)
- 18-17-3 The Administrator may, upon application by an event's sponsors, issue an event permit, for bona fide festivals, fairs, carnivals, bazaars or similar events, to cover all mobile facilities authorized by the event's sponsor to participate in the event. The maximum time for such a permit is limited to the duration of the event.
- 18-17-4 When deemed appropriate by the Administrator or when requested by the applicant, initial applications may be referred to the Commission for review and the City Council for approval.
- 18-17-5 Requests for renewal of an initial permit shall be referred to the Commission for review and to City Council for approval. An application shall be considered a renewal application if the application is received within 60 days of the expiration of a temporary or event permit for the same location. The maximum duration for each permit renewal is one year from the expiration of the last permit.

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- 18-17-6 City Council, when acting on an initial or renewal application, may exercise discretion and waive or modify applicable standards when the applicant has shown just cause and when such a waiver or modification is appropriate for a temporary use.
- 18-17-7 The applicant for initial permit or renewal of a permit shall submit to the Administrator a letter outlining the request, a sketch site plan drawn to scale which addresses the factors outlined above and the fee as per Section 23-8 of this Ordinance.

SECTION 18-18. PROJECTION OF STRUCTURES BEYOND PROPERTY LINES.

- 18-18-1 No marquee, permanent awnings, pent roofs, porches, or similar structures that will be permanently attached to a City sidewalk or will be less than eight (8) feet above a City sidewalk, shall be erected, altered, or remodeled to extend closer to the curb line than any other adjacent existing building, porch, or other structure, but in no case closer than five (5) feet in from the curb line. (7/11/78)
- 18-18-2 Marquees, permanent awnings, pent roofs, or similar structures shall not project closer than five (5) feet in from the curb line, and shall not be less than eight (8) feet above a City sidewalk. (7/11/78)
- 18-18-3 Marquees, permanent awnings, pent roofs, or similar structures attached to buildings fronting on the Loudoun Street Mall shall not project more than four (4) feet from the front property line, and shall not be less than eight (8) feet above the City sidewalk. (7/11/78)

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

- 18-19-1 Home occupations are permitted in any dwelling unit.
- 18-19-2 A home occupation is an accessory use of a dwelling unit for gainful employment involving the manufacture, provision, or sale of goods and/or service, including the sale of food and/or non-food crops produced on the site; and conducted in a dwelling unit except as allowed in an accessory structure per the Conditional Use Permitting provisions identified in Section 18-19-2.6. Home Occupations shall only be engaged in by a person or persons residing in the dwelling unit, provided that: (10/12/10, Case TA-10-418, Ord. No. 2010-51; 1/14/14, Case TA-13-493, Ord. No. 2013-41)
- 18-19-2.1 It is clearly incidental and subordinate to the dwelling unit's use for residential purposes by its occupants;
- 18-19-2.2 With the exception of an accessory garden use and as provided in Section 18-19-2.6, it is conducted in the main building and does not result in alteration of the appearance of the dwelling unit or the lot on which it is located. There shall be no interruption, congestion or change to the character of the neighborhood in terms of traffic or

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vehicular parking resulting from the operation of the home occupation. (10/12/10, Case TA-10-418, Ord. No. 2010-51; 1/14/14, Case TA-13-493, Ord. No. 2013-41);

- 18-19-2.3 With the exception of displaying food and/or non-food crops produced on the site, it is not identified by any sign or by a display of merchandise visible from the exterior of the building (10/12/10, Case TA-10-418, Ord. No. 2010-51);
- 18-19-2.4 It does not involve the storage of goods and materials in excess of fifty (50) square feet of floor area. This storage may be either in the main building or an accessory building, but it shall not be permitted outdoors;
- 18-19-2.5 No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the applicable zoning district.
- 18-19-2.6 A conditional use permit shall be required for any home occupation that proposes to involve the use of an accessory structure as part of a home occupation. In addition to the provisions of this Section, home occupations must conform to the entirety of Section 18-19. In no case shall the floor area used in the accessory structure exceed fifty (50) percent of the gross floor areas of the residential dwelling unit. A conditional use permit application for home occupations under this Section shall include the following (1/14/14, Case TA-13-493, Ord. No. 2013-41):
- a. Property survey or sketch drawn to scale detailing the setbacks of the accessory structure and distances to each of the property lines as well as the distances to structures within 50 feet on immediately adjacent properties.
 - b. A scaled interior layout sketch illustrating the proposed home occupation in the accessory structure.
 - c. A letter outlining the scope and nature of the occupation, involving operating hours, days of the week, and similar details, as well as an explanation of conformance with Section 18-2-1.1 of this Ordinance.
- 18-19-3 The operation of a family day home for not more than five (5) children shall be considered as residential occupancy by a single family; and, therefore does not require a Certificate of Home Occupation. Family day homes serving six through twelve children, exclusive of the provider's own children and any children who reside in the home, shall obtain a Certificate of Home Occupation and shall be licensed by the Virginia Department of Social Services. However, no family day home shall care for more than four children under the age of two, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered. A family day home where the children in care are all grandchildren of the provider shall not be required to be licensed or obligated to obtain a Certificate of Home Occupation. (9/14/10, Case TA-10-337, Ord. No. 2010-40)

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- 18-19-4 Permitted home occupations shall not in any event include (1/14/14, Case TA-13-493, Ord. No. 2013-41):
- Bookstores or motion picture theaters
 - Animal hospitals and kennels
 - Bed and breakfast homestays and boarding houses
 - Massage therapy (other than strictly a home office used for record keeping)
 - Motor vehicle sales, repair, equipment installation, and similar activities
 - Pet Daycare, training or grooming exceeding care of more than one (1) pet at a time, excluding those of the tenant of the dwelling unit
 - Private Clubs or Lodges
 - Restaurants
 - Tourist Homes
 - Vehicle towing, demolishing, or salvaging
- 18-19-5 A yard sale shall be considered a permitted home occupation, subject to the following:
- 18-19-5.1 No more than two yards sales may be conducted at any street address within a 12 month period. For the purposes of this section, each dwelling unit in a multifamily dwelling shall be considered a separate street address. If there is no space to hold the sale at the sale holder's address, the yard sale may be held at a property within 300 feet. Such a yard sale counts as a yard sale at the property where the sale is actually held. (3/8/94, Case TA-94-01, Ord. No. 006-94)
- 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. (3/8/94, Case TA-94-01, Ord. No. 006-94; 12/10/13, Case TA-13-138, Ord. No. 2013-14)
- 18-19-5.3 A Certificate of Occupancy shall not be required. (3/8/94, Case TA-94-01, Ord. No. 006-94)
- 18-19-5.4 Without the limitation on the authority and responsibility of the Zoning Administrator, or the Board of Zoning Appeals, the Police Department of the City shall have the responsibility and authority to inspect any yard sale to determine compliance with the terms of this Article, and shall have authority to enforce the provisions of this Article, including the authority to file charges under Section 21-2 of this Ordinance against any person operating a yard sale in violation hereof. (10/14/86, Ord. No. 016-86)

SECTION 18-20. STORAGE OF MATERIALS AND SUPPLIES AND DISPLAY OF MERCHANDISE FOR SALE OR RENT. (10/17/95, Case TA-95-04, Ord. No. 053-95)

- 18-20-1 The Commission or Administrator, as provided for in the following Sections, may, upon application by a property owner or lessee, grant a permit for outdoor storage of materials and supplies or for outdoor display of merchandise for sale or rent, hereinafter known as storage or display. A permit shall not be issued until the Commission or Administrator determines the storage or display meets the

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requirements of this Ordinance, the City Code or Public Utilities Standards for each of the following areas: screening or buffering, off-street parking, landscaped area, stormwater management, fire protection, vehicle and pedestrian access, signage, sight obstruction, and separation from off-street parking areas. Display of merchandise for sale or rent located adjacent to standing and loading spaces, including petroleum dispensers, need not comply with the off-street parking separation requirements. In reaching such determinations, the Commission or Administrator may seek advice from appropriate City departments. No permit is required for display of merchandise for sale or rent if the area covered by such display does not exceed two (2) percent of the floor area of the permanent building on the lot, but not to exceed 200 square feet, if the height does not exceed six (6) feet and if the location meets the setback and yard requirements for a permanent building on the lot. (10/17/95, Case TA-95-04, Ord. No. 053-95)

- 18-20-2 Permanent storage or display is allowed as provided for in the following table. There must be a permitted or conditional use on the property. The storage or display must be incidental to the conduct of such use. A site plan prepared in accordance with Article 19 of this Ordinance shall be submitted for Commission approval. (10/17/95, Case TA-95-04, Ord. No. 053-95)
- 18-20-3 Seasonal storage or display allowed as provided for in the following table. A site sketch addressing the elements in Section 18-20-1 of this Ordinance accompanied by the fee as per Section 23-8-14 of this Ordinance shall be submitted to the Administrator for approval. Two seasonal permits per lot per 12 month period are allowed. Each permit shall be for no longer than 3 months. (10/17/95, Case TA-95-04, Ord. No. 053-95)
- 18-20-4 Temporary storage or display is allowed as provided for in the following table. Temporary storage or display is limited to two periods per lot per year. Each period shall be no longer than 14 days. No permit is required. (10/17/95, Case TA-95-04, Ord. No. 053-95)
- 18-20-5 Storage or display is allowed as shown in the following table if required screening and/or landscaping is provided. No storage or display shall be situated within ten (10) feet of any front or corner side property line nor within five (5) feet of any side or rear property line except in the Central Business District (B-1) and Residential Business (RB-1) zones, where storage or display shall not be situated within four (4) feet of front and corner side property lines nor three (3) feet of side and rear property lines. The requirement for landscaping or screening may be waived by the Commission or Administrator where the waiver is not adverse to the purpose of this Section and the applicant establishes that in his specific case an undue hardship would result from a strict enforcement of this Section, or that the requirement is unreasonable. The following uses shall be exempt from the screening requirements of Table Items A and D of this Section: sales, leases, or rentals of motor vehicles as defined in Section 46.2-100 of the Code of Virginia, as amended; nursery plant stock for nurseries, and agricultural and construction equipment sales or rentals.

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Any other person who demonstrates to the Administrator or Commission on appeal that the items requested to be stored or displayed outside are similar in nature to the categories of items exempt from street screening shall also be exempt from the street-screening provisions of this Section. (10/17/95, Case TA-95-04, Ord. No. 053-95; 3/8/05, TA-04-08, Ord. No. 007-2005)

<u>District</u>	<u>Permanent</u>	<u>Seasonal</u>	<u>Temporary</u>
RB-1	N/A	ABCE	F
B-1	BCDE	ABCE	F
B-2	BCDE	ABCE	F
CM-1	BCDE	ABCE	F
M-1	BCDE	ABCE	F
M-2	BCDE	ABC	F
PC	N/A	ABCE	F

N/A	Not allowed.
A	Raised landscaping meeting Section 19-5-6.4b of this Ordinance to adjacent streets.
B	Opaque screening meeting Section 19-5-6.4d of this Ordinance to adjacent residential uses.
C	Opaque screening meeting Section 19-5-6.4d of this Ordinance to adjacent residential zones.
D	Opaque screening meeting Section 19-5-6.4d of this Ordinance to adjacent streets
E	Opaque screening meeting Section 19-5-6.4d of this Ordinance to adjacent property in a less intense zoning district.
F	No additional screening or landscaping requirements

SECTION 18-21. LOT AREA CALCULATION.

18-21-1 For purposes of calculating required lot area, Total Project Area, and landscaping, buffer, and recreational area, narrow portions of lots which are less than one-third (1/3) of the required lot width shall be excluded from the calculations. (12/13/88, Case TA-88-10, Ord No. 052-88)

SECTION 18-22. UNDERGROUND INSTALLATION OF WIRE AND CABLE UTILITIES. (9/12/89, Case TA-89-03, Ord. No. 024-89)

18-22-1 For any new projects, or for any remodeling or renovation of an existing project which requires an increase in service capacity, distribution lines for electrical, telephone, cable television and any other services requiring wires or cables shall be installed underground. The Administrator may waive, after petition by the property owner, this requirement for residential work when the administrator determines that such waiver is warranted because there are few if any utility poles on the project side of the street and a waiver will prevent the installation of additional utility poles. Such petition shall

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be made in the form prescribed by the Administrator and accompanied by the fee as per Article 23 of this Ordinance. (9/12/89, Case TA-89-03, Ord. No. 024-89; 12-13-94, TA-94-11, Ord. No. 002-95)

SECTION 18-23. RE-ADVERTISEMENT FEES.

18-23-1 In the event any public hearing required by this ordinance is delayed at the request of an applicant, the applicant shall pay a re-advertisement fee as per Section 23-8 prior to the deadline for applications for the desired public hearing date. (4/10/90, Case TA-90-13, Ord. No. 011-90; 3/14/06, Case TA-05-07, Ord. No. 09-2006)

SECTION 18-24. ENTERTAINMENT ESTABLISHMENTS. (10/22/13, Case TA-13-146, Ord. No. 2013-28)

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 applicable noise and maximum sound level regulations per Chapter 17 of Winchester City Code, as amended.