

ARTICLE 8

HIGHWAY COMMERCIAL DISTRICT - B-2

STATEMENT OF INTENT

This district is intended to provide sufficient space in appropriate locations for a wide variety of commercial and miscellaneous service activities, generally serving a wide area and located particularly along certain existing major thoroughfares where a general mixture of commercial and service activity now exists, but which uses are not characterized by extensive warehousing, frequent heavy trucking activity, open storage of materials or the nuisance factors of dust, odor, and noise associated with manufacturing. This includes such uses as retail stores, banks, business offices, drive-in restaurants, and automobile sales and service facilities.

SECTION 8-1. USE REGULATIONS.

Structures to be erected and land to be used shall be for the following uses:

- 8-1-1 Repealed. (9/12/89, Case TA-89-01, Ord. No. 022-89)
- 8-1-2 Repealed. (9/12/89, Case TA-89-01, Ord. No. 022-89)
- 8-1-3 Repealed. (9/12/89, Case TA-89-01, Ord. No. 022-89)
- 8-1-4 Repealed. (9/12/89, Case TA-89-01, Ord. No. 022-89)
- 8-1-5 Repealed. (9/12/89, Case TA-89-01, Ord. No. 022-89)
- 8-1-6 Home occupations in accord with Section 18-19 of this Ordinance. (10/11/83, Case TA-83-06, Ord. No. 034-83)
- 8-1-7 Accessory uses, as defined.
- 8-1-8 Automobile and truck sales and service establishments and rental agencies, provided that vehicle lifts and pits and all service and repair of motor vehicles shall be within a building enclosed on all sides. (10/11/83, Case TA-83-06, Ord. No. 034-83)
- 8-1-9 Banks and financial institutions, not including short-term loan establishment, as defined in Article 1. (4/3/10, Case TA-10-21, Ord. No. 2010-06)
- 8-1-10 Bowling alleys.
- 8-1-11 Building supplies and service with storage under cover.
- 8-1-12 Car washes.

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- 8-1-13 Churches.
- 8-1-14 Contractors' establishments, offices and display rooms. (10/17/95, Case TA-95-04, Ord. No. 053-95)
- 8-1-15 Convenience and service establishments such as, but not limited to, barber shops, beauty parlors, tailors, automatic self-service laundries.
- 8-1-16 Day nursery or day care center.
- 8-1-17 Fire stations and rescue squad stations.
- 8-1-18 Funeral homes, and crematories when accessory to a funeral home. (6/8/10, Case TA-10-111, Ord. No. 2010-19)
- 8-1-19 Government offices.
- 8-1-20 Bed & Breakfast Inns, Bed & Breakfast Homestays, Hotels and motels. (12/13/94, Case TA-94-09, Ord. No. 028-94)
- 8-1-21 Institutions of higher education.
- 8-1-22 Laundry, cleaning, and dyeing works in which no combustible solvent is used.
- 8-1-23 Library.
- 8-1-24 Machinery sales and service.
- 8-1-25 Museums and art galleries.
- 8-1-26 Newspaper office buildings, including printing and publishing facilities incidental to such use.
- 8-1-27 Office, business and professional.
- 8-1-28 Parking garages and parking lots.
- 8-1-29 Pet shops.
- 8-1-30 Philanthropic and charitable institutions.
- 8-1-31 Plant nurseries and greenhouses.

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- 8-1-32 Processing or manufacturing establishments that are not objectionable because of smoke, odor, dust, or noise, but only when such processing or manufacturing is incidental to a retail business conducted on the premises and where not more than ten (10) persons are employed on the premises in the processing or manufacturing activities.
- 8-1-33 Public utilities, such as poles, lines, distribution transformers, pipes, meters, water and sewer lines, booster or relay stations, transformer substations, transmission lines and towers.
- 8-1-34 Radio and television broadcasting stations, studios, or offices.
- 8-1-35 Repair services or businesses, including repair of bicycles, guns, radios, television sets, electrical appliances, locks, and other home appliances, shoes, toys, typewriters, watches, and clocks.
- 8-1-36 Restaurants.
- 8-1-37 Retail stores.
- 8-1-38 Schools.
- 8-1-39 Service stations, provided that all repair of vehicles take place in a fully enclosed building. (10/11/83, Case TA-83-06, Ord. No. 034-83)
- 8-1-40 Special care hospitals.
- 8-1-41 Outdoor storage of materials and supplies and display of merchandise for sale or rent incidental to the conduct of any permitted uses on the lot as provided for in Section 18-20 of this Ordinance. (10/17/95, Case TA-95-04, Ord. No 053-95)
- 8-1-42 Theaters, motion picture theaters, and assembly halls.
- 8-1-43 Veterinary hospitals.
- 8-1-44 Wholesale businesses where loading areas are completely screened from public street view.
- 8-1-45 Off-Street Parking Areas as defined in Section 18-6 of this Ordinance for permitted and conditional uses in the B-2 District and access drives for permitted and conditional uses in the B-1, CM-1, M-1, M-2, MC and HE-1 Districts in accordance with Section 18-6 of this Ordinance. (8/12/97, TA-97-06, Ord. No. 019-97; 3/8/05, TA-04-08, Ord. No. 007-2005)
- 8-1-46 Signs in accordance with Section 18-8 of this Ordinance.
- 8-1-47 Commercial Records Center. (4/12/94, Case TA-94-03, Ord. No 011-94)

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- 8-1-48 Print Shops. (10/08/96, Case TA-96-05, Ord. No. 025-96)
- 8-1-49 Physical fitness or martial arts establishments. (10/14/97, Case TA-97-09, Ord. No. 027-97)
- 8-1-50 Assembling establishments not involved in any on site manufacturing that are not objectionable because of smoke, odor, dust, or noise with not more than ten (10) persons employed. (1/14/03, Case TA-02-10, Ord. No. 003-2003)
- 8-1-51 Bakery. (1/14/03, Case TA-02-10, Ord. No. 003-2003)
- 8-1-52 Entertainment Establishments, located at least 200 feet from a residentially zoned property, as measured from the structure containing the establishment or the off-street parking area to the residential zone property line. (10/22/13, Case TA-13-146, Ord. No. 2013-28)

SECTION 8-2. USES REQUIRING A CONDITIONAL USE PERMIT

- 8-2-1 Mini-warehouses/mini-storage, as defined, subject to the following provisions. (5-16-78) (Revised section adopted 9-10-91, Case TA-91-02, Ord. No. 037-91)
- a. Repealed. (10/17/95, Case TA-95-04, Ord. No. 053-95)
 - b. No business activities other than rental of storage units and office use shall be conducted on the premises or within the building. Specifically, no activities such as miscellaneous or garage sales shall be conducted on the premises. The servicing or repair of motor vehicles, boats, trailers, lawn mowers, or other similar equipment shall not be conducted on the premises. The operation of a mini-warehouse/mini-storage shall in no way be deemed to include a transfer and storage business where the use of vehicles is part of such business.
 - c. When a mini-warehouse/mini-storage is built adjacent to or within 100 feet of a lot in a residential district without an intervening street, a solid wall or fence at least six (6) feet in height, with its finished side facing the residential lot, shall be erected between the mini-warehouse/mini-storage and the residential lot. However, the wall or fence shall not be required to extend into the front yard required on the lot on which it is located.
 - d. No entrances to individual compartments shall front on any public street.
 - e. The maximum height of the storage section of a mini-warehouse/mini-storage building shall be twenty-five (25) feet.
 - f. The maximum total storage area in a mini-warehouse/mini-storage building shall be seven thousand, five hundred (7,500) square feet.

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- 8-2-2 Adult bookstores, adult motion picture theaters, and adult mini-motion picture theaters, provided that no two such uses shall be permitted within one thousand (1,000) feet of each other; and that no such uses shall be permitted within five hundred (500) feet of any residentially zoned district or the nearest property line of any church, school, library, or playground. No such uses shall be open for business later than 11:00 p.m. or earlier than 9:00 a.m. (10/12/82, Case TA-82-10, Ord. No.
- 8-2-3 Miniature golf courses and golf driving ranges.
- 8-2-4 Entertainment Establishments, located less than 200 feet from a residentially zoned property, as measured from the structure containing the establishment or the off-street parking area to the residential zone property line, and such establishments where the entertainment will be conducted outdoors. (10/22/13, Case TA-13-146, Ord. No. 2013-28)
- 8-2-5 Nursing and rest homes, and assisted living facilities. (1/12/84, Case TA-83-07, Ord. No. 001-84; 9/14/10, Case TA-10-333, Ord. No. 2010-38))
- 8-2-6 Pool and billiard rooms.
- 8-2-7 Private clubs and lodges.
- 8-2-8 Roller Rinks.
- 8-2-9 Tourist homes.
- 8-2-10 Kennels, provided no such use is situated within 500 feet of any residential district and limited to a maximum of 25 animals at any one time.
- 8-2-10.1 Pet Daycare Center, provided no such use is situated within 500 feet of any residential district and no animals are kept outdoors between the hours of 7:00p.m. and 7:00 a.m. (8/12/08, Case TA-08-04, 2008-33)
- 8-2-11 Single family detached dwellings. (9/12/89, Case TA-89-01, Ord. No. 022-89)
- 8-2-12 Repealed. (3/14/95, Case TA-94-14, Ord. No. 013-95)
- 8-2-13 Repealed. (3/14/95, Case TA-94-14, Ord. No. 013-95)
- 8-2-14 Repealed. (3/14/95, Case TA-94-14, Ord. No. 013-95)
- 8-2-14.1 Repealed. (3/14/95, Case TA-94-14, Ord. No. 013-95)
- 8-2-15 Repealed. (3/14/95, Case TA-94-14, Ord. No. 013-95)
- 8-2-16 Bus terminals. (6/14/94, Case TA-94-06, Ord. No. 019-94)

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- 8-2-17 Transmitting and receiving facilities and towers for cellular communications systems and similar communications systems in accordance with Section 18-2-1.2 of this Ordinance. (2/13/96, Case TA-95-07, Ord. No. 002-96)

- 8-2-18 Group Home and assisted living facility in which no more than eight (8) persons reside as residential occupancy by a single family. (10/9/07, Case TA-07-02, Ord. No. 2007-41; 9/14/10, Case TA-10-333, Ord. No. 2010-38)

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

- 8-2-20 Multifamily and Condominium dwellings, subject to the following: (9/13/05, Case TA-05-02, Ord. No. 025-2005; 2/10/09, Case TA-08-13, Ord. No. 2009-05)

The intent of this provision is to encourage quality mixed use development, particularly in areas served by public transportation. In this case, permitted B-2 commercial uses shall be limited to the following: Banks and financial uses, convenience and services establishments, laundromats, dry cleaners where dry cleaning is done off premises, repair services or businesses excluding auto or truck repair, art galleries, retail stores, general and medical offices, physical fitness and martial arts establishments, bakeries, and restaurants, excluding nightclub use.

- a. A maximum of eight dwelling units per building, however, any two buildings may be connected by a common elevator;

- b. No dwellings shall have more than two (2) bedrooms nor be situated on the ground level;

- c. Building entrances and off-street parking areas serving dwelling units should be oriented to the side or rear of the property;

- d. Density shall not exceed one (1) dwelling unit for each 3500 square feet of the Total Project Area, except where dwelling units are certified by the standards outlined in the United States Green Building Council LEED® for Homes program; and, with each dwelling unit having no more than two (2) bedrooms, the following Density Adjustment shall be applied: (3/11/09, Case No.TA-08-12, Ord. No. 2009-10)

<u>Level of Certification</u>	<u>Bonus Factor</u>
Certified	.05
Silver	.10
Gold	.15
Platinum	.20

- e. The absolute minimum floor area per dwelling unit in each building used for this purpose shall be as follows: seven hundred (700) square feet for efficiency & one (1) bedroom units; and nine hundred (900) square feet for two (2) or more bedrooms.

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- 8-2-21 Motor vehicle painting, upholstering, and body and fender work in a facility replacing an existing legally nonconforming facility, provided that all service and repair of motor vehicles shall be within a building enclosed on all sides. No entrances to individual service bays shall be oriented to any public street, nor be oriented toward a residential district. Damaged motor vehicles awaiting repair shall be contained within a completely enclosed building or within an area enclosed on all sides by screening meeting the requirements of Section 19-5-6.4d of this Ordinance. (8/14/07, Case TA-07-04, Ord. No. 2007-27)
- 8-2-22 Short-term loan establishment, provided that no such use is located within 500 feet of any other short-term loan establishment or residentially-zoned property. (4/3/10, Case TA-10-21, Ord. No. 2010-06)
- 8-2-23 Crematories. (6/8/10, Case TA-10-111, Ord. No. 2010-19)
- 8-2-24 Hookah establishment, as defined, provided that no such use shall be located within 500 feet of a similar use, public/private school, playground, or public park. (2/8/11, Case TA-10-639, Ord. No. 2010-73)
- 8-2-25 Accessory structure, used and occupied as a subordinate dwelling unit by a domestic employee, as defined; and, provided that such conditional use is recorded on the corresponding chain of title for the subject property in the office of the Winchester Circuit Court Clerk. Any such conditional use permit shall expire immediately upon change of ownership or change of occupancy of the main structure, so as to prevent undue density and overcrowding of land, which could adversely impact public health, safety, and welfare. (6/14/11, Case TA-11-06, Ord. No. 2011-14)
- 8-2-26 Arenas, Amphitheatres, and Stadiums provided that no such structure is situated within 300 feet of any MR or LR residential district. (7/10/12, Case TA-12-187, Ord. No. 2012-20)
- 8-2-27 Home occupations in accordance with Section 18-19-2.6. (1/14/14, Case TA-13-493, Ord. No. 2013-41)

SECTION 8-3. AREA REGULATIONS.

The minimum lot area for uses shall be as follows: (9/12/89, Case TA-89-01, Ord. No. 022-89)

- 8-3-1 Single family detached dwellings - 10,000 square feet per unit.
- 8-3-2 Repealed. (3/14/95, Case TA-94-14, Ord. No. 013-95)
- 8-3-3 Repealed. (3/14/95, Case TA-94-14, Ord. No. 013-95)
- 8-3-4 Repealed. (3/14/95, Case TA-94-14, Ord. No. 013-95)

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8-3-5 Other permitted and conditional uses - For each building containing or intended to contain one (1) or more permitted or conditional uses, there shall be a minimum lot area of ten thousand (10,000) square feet. (5-16-78)

SECTION 8-4. LOT WIDTH REGULATIONS.

The minimum lot width for all permitted uses and uses requiring a conditional use permit shall be one hundred (100) feet, except that for townhouses, the minimum lot width may be reduced down to twenty-four (24) feet per unit. The property line shall be the middle of the common wall of townhouse units. (8/9/88, Case TA-88-03, Ord. No. 028-88)

SECTION 8-5. SETBACK REGULATIONS.

8-5-1 Main buildings: Thirty-five (35) feet. (3/8/94, Case TA-93-08, Ord. No. 004-94)

8-5-2 For canopies covering gasoline or other petroleum pumps or dispensers which are oriented at an angle between forty-five (45) and ninety (90) degrees to the adjacent right-of-way line, there shall be a twenty (20) foot setback required from any street or highway, or from any street or highway right-of-way. Where the above angle is less than forty-five degrees, there shall be a ten (10) foot setback. No setback shall be required for canopies to be installed above existing islands or replacement islands provided the replacement islands come no closer to the street right-of-way than the closest existing island to the right-of-way and provided dispensing of petroleum does not cease for more than six consecutive months anytime subsequent to adoption of this amendment. (1/9/90, Case TA-89-06, Ord. No. 90-01)

SECTION 8-6. YARD REGULATIONS.

8-6-1 Side.

- a. The minimum width for each side yard for single family detached dwellings and two-family dwellings shall be ten (10) feet, except as per Section 8-8 of this Ordinance. (9/12/89, Case TA-89-01, Ord. No. 022-89)
- b. The minimum width of each side yard for townhouse dwellings shall be 10 feet except as per Section 8-8 of this Ordinance, except along common property lines of units within the same townhouse dwelling in which case the common side yard equals zero (0) feet and except that townhouse dwellings abutting a LR or MR Residential District in which case a 25-foot minimum side yard is required. (9/12/89, Case TA-89-01, Ord. No. 022-89)
- c. The minimum width of each side yard for a multifamily structure shall be fifteen (15) feet except as per Section 8-8 of this Ordinance and except when abutting

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a LR or MR Residential District in which case a 50-foot minimum side yard is required. (9/12/89, Case TA-89-01, Ord. No. 022-89)

- d. The minimum width of each side yard for a main structure for other permitted or conditional uses shall be ten (10) feet, except that when such use abuts a residential district, there shall be a side yard of twenty-five (25) feet and except as per Section 8-8 of this Ordinance. No side yard shall be required when a building adjoins a railroad right-of-way or as permitted by Section 8-10 of this Ordinance. (9/12/89, Case TA-89-01, Ord. No. 022-89; 2/23/10, Case TA-09-359, Ord. No. 2009-42)

8-6-2 Rear. Each main structure shall have a rear yard of at least twenty-five (25) feet except when such use abuts a residential district in which case there shall be a minimum rear yard of fifty (50) feet and except as follows. No rear yard shall be required when a building adjoins a railroad right-of-way and the proposed building or structure functionally requires immediate proximity to the railroad right-of-way or siding as determined by the administrator. No rear yard shall be required within commercial centers as permitted by Section 8-10 of this Ordinance. (9/12/89, Case TA-89-01, Ord. No. 022-89; 9/11/01, TA-01-03, Ord. No. 028-2001; 2/23/10, Case TA-09-359, Ord. No. 2009-42)

8-6-2.1 When a multifamily structure abuts a LR or MR residential district in which case there shall be a rear yard minimum of seventy-five (75) feet. (9/12/89, Case TA-89-01, Ord. No. 022-89)

SECTION 8-7. HEIGHT REGULATIONS.

8-7-1 Buildings may be erected up to thirty-five (35) feet from grade except that:

- a. A building may be erected up to fifty-five (55) feet provided that the required side and rear yards are increased by one (1) foot for each foot of building height over thirty-five (35) feet.
- b. Church spires, belfries, cupolas, chimneys, flues, flag poles, television antennas, radio aerials, and equipment penthouses are exempt.

SECTION 8-8. CORNER SIDE YARD REGULATIONS. (9/13/05, Case TA-05-04, Ord. No. 027-2005)

8-8-1 For all uses: thirty-five (35) feet or more

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SECTION 8-9. SPECIAL PROVISIONS FOR TOWNHOUSES. (8/9/88, Case TA-88-03, Ord. No. 028-88)

- 8-9-1 Attached dwellings shall be separated by a wall meeting fire protection requirements as set forth in the Virginia Uniform Statewide Building Code, as amended.
- 8-9-2 Each townhouse shall front on a dedicated public street or a twenty (20) foot minimum pavement width private street. If access is to be provided by means of a private street, the following minimum standards of development shall be observed:
 - 8-9-2.1 Surfacing shall be to City street standards.
 - 8-9-2.2 A sidewalk four (4) feet in width on at least one side of the street, constructed of concrete or brick, shall be provided.
 - 8-9-2.3 The paved radius of all cul-de-sacs shall be at least forty (40) feet.
- 8-9-3 Management of common open space and private streets. As per Section 5-10 of this Ordinance.

SECTION 8-10. SPECIAL PROVISIONS FOR COMMERCIAL CENTERS. (2/23/10, Case TA-09-359, Ord. No. 2009-42)

- 8-10-1 No side or rear yard shall be required along the common shared property line of buildings within the same commercial center provided the following conditions are met:
 - 8-10-1.1 Cross easements are created to permit vehicular and pedestrian access to and from any proposed lot(s). Easements shall also be provided for utilities necessary to service any proposed lot(s) within the commercial center.
 - 8-10-1.2 The cross easements shall contain provisions for the maintenance of common open space, private streets and parking areas within the commercial center.
 - 8-10-1.3 All buildings within a commercial center shall meet or exceed the required yard regulations for the perimeter boundary of the commercial center.