

# ORDINANCE AMENDMENT

**To Add Recreational and Leisure Time  
Activities Uses, which are Compatible  
with Surrounding Uses, as a By-Right Use  
in the B-1, Central Business District**



# City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

**STAFF REPORT**  
**November 12, 2014**

## **ZONING ORDINANCE AMENDMENT** **Section 10-3-84**

Staff is proposing to amend the Zoning Ordinance (ZO) Section 10-3-84 Uses Permitted By-Right of the B-1, Central Business District. Specifically, the amendment includes adding a statement to subsection (4) to clarify that property owners may operate recreational and leisure time activities uses as a by-right use so long as they are compatible with surrounding uses.

Currently, Section 10-3-84 (4) lists several uses as permitted by-right by stating: "Theaters, community rooms, museums and galleries and other places of assembly for the purpose of entertainment or education." The proposed amendment would add the following sentence to the stated section: "In addition, customary recreational and leisure-time activities which are compatible with surrounding uses are permitted." If approved, Section 10-3-84 (4) would match the existing language and uses permitted within the B-2, General Business District Section 10-3-90 (4).

The above described amendment was put forth due to a recent staff discussion regarding recreational and leisure-time activities uses when we realized it is not clearly specified that such uses are allowed in B-1 even though we have allowed them for many years. In fact, since 1939, when zoning regulations were first adopted in the City, some form of recreational, leisure time, or amusement uses (i.e. bowling alleys, fitness facilities, billiard halls, yoga studios, etc.) have been permitted downtown, where the permitted uses were stated differently over time.

In the 1939 and 1952 ZO, the B-1 district allowed "billiard and pool tables and bowling alleys; public dance halls, shooting galleries, and similar forms of public amusements." In the 1958 ZO the permission was stated slightly differently allowing "billiard and pool rooms, bowling alleys and similar forms of commercial recreation." In 1963, the ZO stated "theatres, amusement or recreation facility" was permitted; while in 1969 and 1976, the uses were more narrowly specified stating "theatres, indoor amusement and recreation facilities" were permitted (emphasis added). Also in the 1969 and 1976 ZO, the B-2 district allowed "commercial amusement or recreation facilities, including outdoor establishments as drive-in theatres and commercial golf ranges (emphasis added). From 1978 through 1984 the downtown allowed "theatres, leisure time or recreation facilities;" and then finally, in 1987, the ZO utilized the same language that exists today for both the B-1 and B-2 districts. Not until 2004 was recreational and leisure time uses added to the ZO as a special use permit (SUP) within the M-1 district when an individual wanted to operate a paintball facility in that zoning district.

In knowing this history, one could argue businesses like bowling alleys and fitness centers are allowed through the existing listed uses, however, since other sections of the ZO make use of the "recreational and leisure-time activities" terminology, and uses such as fitness facilities have

been required to obtain a recreational and leisure-time activities SUP in the M-1 district to operate, staff believed it would be good practice to make the proposed amendment to clarify that such uses are permitted by-right.

The most important component of the proposed amendment is to include the phrase "...which are compatible with surrounding uses..." Having this provision will provide an administrative level of scrutiny for the Zoning Administrator to ensure that such uses do not cause a great deal of undesirable noise, lighting, or other unwelcomed utilization of the City's downtown. If the Zoning Administrator interprets a particular recreational and leisure-time activity as not being compatible with the surrounding uses, and the property owner believes the interpretation is wrong, they may appeal the decision to the Board of Zoning Appeals.

Staff recommends approving the proposed amendment to Section 10-3-84 (4).

ORDINANCE AMENDING AND RE-ENACTING SECTION

10-3-84

OF THE

CODE OF ORDINANCES

CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of  
Harrisonburg, Virginia:**

**That Section 10-3-84 Uses Permitted By-Right of the B-1, Central Business District be amended by adding text within subsection (4) as shown:**

- (4) Theaters, community rooms, museums and galleries and other places of assembly for the purpose of entertainment or education. In addition, customary recreational and leisure-time activities which are compatible with surrounding uses are permitted.

The remainder of Section 10-3-84 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

---

**MAYOR**

ATTESTE:

---

CLERK PRO TEMPORE