

Michael D'Orazio, AICP  
Deputy Director

## MEMORANDUM

TO: Mayor, Town Council

FROM: Michael D'Orazio, AICP

DATE: November 22, 2021

SUBJECT: Revisions to Proposed Outdoor Dining Zoning Ordinance Text Amendments,  
Sections 18-72 and 18-210 of the Town Code

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### Background:

The Town Council held a public hearing on November 15, 2021, for the consideration of text amendments to the zoning ordinance, relating to the allowance of outdoor dining. The proposed amendments would allow outdoor dining, both on hard surface areas outside of restaurants and on a limited number of off-street parking spaces, through an administrative process. The ordinance included multiple criteria and would also require review by the Board of Architectural. Please refer to the [November 15, 2021 staff summary](#) for more information on background related to the current emergency ordinance allowing outdoor dining and the regular process for outdoor dining through the Conditional Use Permit process.

During the meeting, Town Council members conveyed multiple concerns about the proposed text amendments, especially related to the proposed off-street parking provisions. A summary of the general concerns voiced by Councilmembers is listed below.

- **Noise** – At the public hearing, some residents expressed concerns about existing outdoor dining for nearby restaurants, specifically along Church Street. There were also concerns from Councilmembers about potential future conflicts between other restaurants and nearby residential neighborhoods.
- **Parking** – Concerns were expressed about the number of parking spaces potentially being taken up by outdoor dining and the potential increase for demand with more outdoor seats.
- **Appeals Process** – There was discussion of an appeals process, either for restaurants or nearby residents, to contest decisions by the Zoning Administrator related to outdoor dining.
- **Property Owner Authorization** – There was a general consensus that the ordinance should include text requiring the consent of any property owner for outdoor dining to be set up on their property.

## Proposed Revisions:

After reviewing the concerns of the Town Council, Staff has proposed revisions to the ordinance. The concerns and how they are addressed in the revised ordinance is summarized below. Additionally, staff has proposed language for criteria that Town Council should consider when reviewing outdoor dining located within Church Street Vision properties and has included a provision permitting restaurants with a temporary permit to operate under that permit for another four months after adoption of the ordinance.

- **Noise** – Staff proposes including a provision that outdoor dining located 50 feet away from a residential property be subject to hour of operation limitations. The proposed hours of operation for outdoor dining located within 50 feet are 10 am to 9 pm on Sunday, 9 am to 9 pm on Monday through Thursday, 9 am to 10 pm on Friday, and 10 am to 10 pm on Saturday. Staff has prepared an online map showing a 50 foot buffer and a 100 foot buffer from residential properties. It can be found [here](#). If the online map does not load correctly, PDF maps are also included with this item.
- **Parking** – Staff proposes to limit the number of seats located within off-street parking spaces. Staff proposes a limit of 8 seats per parking space utilized.
- **Appeals Process** – Staff has concerns about creating an appeals process. Staff would prefer either having a Conditional Use Permit process or an administrative process. Since such a process does not currently exist in the Town Code, there would be questions as to how an appeals process would function and when an appeal could be made to the Board of Zoning Appeals. As is allowed under Code of Virginia already, any decision by the Zoning Administrator may be appealed to the Board of Zoning Appeals.
- **Property Owner Authorization** – Staff already requires authorization from the property owner for permits, including for Temporary Outdoor Commercial Activity, but will also include language within the text amendment stating that owner authorization is required.

CC: Cindy Petkac, Director of Planning & Zoning  
Steven D. Briglia, Town Attorney  
Mercury Payton, Town Manager  
Natalie Monkou, Economic Development Manager