



## Legislation Text

---

**File #:** 22-3061, **Version:** 1

---

### **Subject:**

Refer Zoning Text Amendments to and Set a Joint Public Hearing with the Planning Commission on May 11, 2022 for Text Amendments Related to Outdoor Dining in Sections 18-72, 18-74, and 18-210.

### **EXPLANATION AND SUMMARY :**

#### **Emergency Ordinance for Outdoor Dining**

Prior to the COVID-19 pandemic, the Town Code required a conditional use permit for outdoor dining, per Section 18-72, Section 18-74, and Section 18-210. Conditional use permits require a review by the Planning Commission and a decision by the Board of Zoning Appeals. A \$1,500 fee is also associated with a conditional use permit. Additionally, per the current zoning ordinance, off-street parking spaces cannot be utilized for outdoor dining.

On June 1, 2020, the Vienna Town Council approved an emergency ordinance to permit temporary waivers of Town Code regulations for outdoor commercial activity, specifically to assist businesses that were adversely affected by the ongoing COVID-19 pandemic. The Town Council approved several extensions of the emergency ordinance, with the last one not to be extended beyond six-months from the June 30, 2021 expiration of the Commonwealth of Virginia's State of Emergency.

From June 1, 2020 to Dec. 31, 2021, 22 restaurants received approval for temporary outdoor dining. Of those 22 restaurants, 13 utilized off-street parking spaces for outdoor dining space. In October 2021, staff observed a total of 58 off-street parking spaces being utilized.

#### **Zoning Ordinance Text Amendments**

To address the ongoing need for outdoor dining and plan for the expiration of emergency ordinance, Town Council directed the Planning Commission to consider text amendments that would allow outdoor dining on a more permanent basis, without the need to receive a conditional use permit. The Planning Commission held a public hearing on Nov. 3, 2021 and voted 6-0 to recommend approval of the text amendments as presented to the Town Council.

On Nov. 15, 2021, the Vienna Town Council held a public hearing on proposed amendments to the zoning ordinance related to the allowance of outdoor dining. Several residents and business owners provided comments during the hearing. In addition, Council received 100+ emails on the matter. After hearing concerns of noise and voicing other potential issues with outdoor dining, the Council voted to close the public hearing and continue the discussion to the Dec. 6, 2021 regular meeting, after holding a conference session on Nov. 30, 2021.

At the Nov. 30, 2021 discussion a majority of councilmembers supported the idea of allowing restaurants currently with temporary permits for outdoor dining to continue operating under those permits for another six months past the emergency ordinance expiration (June 30, 2022), with a couple of additional conditions. The conditions include limiting the number of seats within off-street parking spaces and restricting the hours that outdoor dining can be occupied if the dining is within so many feet of residential properties. The Town Council adopted those changes on Dec. 6, 2021, and acknowledged the need to revisit outdoor dining prior to June 30, 2022.

### **Additional Text Amendments**

The Town Council now wishes to further amend the zoning ordinance related to outdoor dining, which is regulated in Section 18-72, Section 18-74, and Section 18-210 of Chapter 18 of the Town Code.

Staff notes that two of the biggest concerns with outdoor dining remain noise and parking. At the public hearing on Nov. 15, 2021, 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. Concerns were also expressed about the number of parking spaces potentially being taken up by outdoor dining and the potential increase for demand with more outdoor seats.

**Strategic Plan Initiative:** *Vienna as a complete community*

**Board or Commission of Interest:** Planning Commission

**Departmental Recommendation :** The Town Council must refer zoning text amendments to the Planning Commission and hold a public hearing.

**Finance Recommendation :**

**Purchasing Recommendation :**

**Town Attorney Recommendation :** Pursuant to Town Code Section 18-247, the Town Council may conduct a joint public hearing with the Planning Commission or refer the proposed Zoning text amendment to the Planning Commission in the discretion of the Town Council.

### **Sec. 18-247. Town Council to give notice and hold hearing.**

Before considering any proposed amendment, supplement, change, or rezoning, the Town Council shall hold a public hearing thereon, notice of said hearing to be accomplished as prescribed in section 18-246. The planning commission and council may hold a joint public hearing after the public notice as set forth in section 18-246. If such joint hearing is held, then public notice as set forth above need be given only by the council. In the case of a proposed amendment to the zoning map, such public notice shall state the general usage and density range of the proposed amendment and the general usage and density range, if any, set forth in the applicable part of the comprehensive plan.

(Code 1969, § 18-247; Ord. of 11-1968; Ord. of 12-2-1991)

**Town Manager's Recommendation** : I recommend the Town Council refer the proposed outdoor dining text amendments to the Planning Commission and set a joint public hearing with the Planning Commission on May 11, 2022, as presented.

Cost and Financing: N/A

Account Number: N/A

Decision Needed by This date: N/A

**PROPOSED/SUGGESTED MOTION**

"I move to refer the proposed outdoor dining text amendments to the Planning Commission and set a joint public hearing with the Planning Commission on May 11, 2022."

And

"I further move to direct the Town Clerk to advertise the public hearing for May 11, 2022."

Or

Other action deemed necessary by Council.