



Legislation Text

File #: 21-2756, **Version:** 1

Subject:

Consideration of a zoning ordinance text amendment for Section 18-72 and Section 18-210, related to the allowance of outdoor dining and adoption of text amendments

EXPLANATION AND SUMMARY :

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. The Council voted to close the public hearing and continue the discussion to the Dec. 6, 2021 regular meeting. The Council also voted to extend the emergency ordinance to Dec. 30, 2021.

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

Twenty-two restaurants have received approval for temporary outdoor dining. Of those 22 restaurants, 13 are currently utilizing off-street parking spaces for outdoor dining space. Staff recently observed a total of 58 off-street parking spaces being utilized.

Normally, the Town Code requires a conditional use permit for outdoor dining, per Section 18-72 and Section 18-210. This requires 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. Per the current zoning ordinance, off-street parking spaces cannot be utilized for outdoor dining.

In lieu of the conditional use permit process, and as a permanent replacement for a simplified and more streamlined process to allow for outdoor dining, staff has proposed language modifying Section 18-72 and Section 18-210. The Planning Commission held a work session on Oct. 13, 2021 to discuss the proposed text amendments.

The proposed text amendments, which have been revised since the Planning Commission work session, allow for outdoor dining with administrative review and allow for dining within parking spaces, with conditions. All structures, features and furnishings for both permanent outdoor dining and off-street parking dining would also be subject to review by the Board of Architectural Review. Both the permanent outdoor dining and annual off-street parking dining also would require permits with the submission of a to-scale drawing showing any proposed seating and improvements.

The proposed text amendments are consistent with the Town's Comprehensive Plan, specifically the

land use goal of encouraging a vibrant central business district (page 19) and the economic development goals of creating an attractive, walkable community and improving government regulations and processes (page 49).

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. The Town Council held a public hearing on November 15, 2021. After hearing from the public, the Town Council closed the public hearing and discussed the proposed text amendments. Town Council voiced several concerns about the proposed amendments, including the impacts of outdoor dining to nearby residential neighborhoods. Town Council voted to continue the consideration of the text amendments to the December 6, 2021, after holding a conference session on November 30, 2021.

At the November 30, 2021 discussion most councilmembers supported the idea of allowing restaurants currently with temporary permits for outdoor dining to continue operating under those permits for another 6 months past the expiration of the emergency ordinance, 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 text amendments including this language are attached as items 11 and 12. During this 6-month extension, Town Council intends to further study revising proposed text amendments related to outdoor dining.

The Town Council also will consider amending Section 1-12 of the Town Code to amend the Planning and Zoning Schedule of Fees and add \$100 fees for both types of outdoor dining permits.

Strategic Plan Initiative: *Vienna as an influential and well-governed community*

Board of Commission of Interest: Planning Commission

Departmental Recommendation : The Town Council may adopt the text amendments as presented or take other actions as deemed necessary.

Finance Recommendation :

Purchasing Recommendation :

Town Attorney Recommendation : After consideration of the Planning Commission recommendation and public hear input from community members, the Town Council may adopt proposed amendments to Chapter 18 as proposed in its discretion.

Town Manager's Recommendation : The Town Manager recommends adoption of the text amendments as presented or other action Town Council deems necessary.

Cost and Financing: N/A

Account Number: N/A

Decision Needed by This date: Dec. 30, 2021

PROPOSED/SUGGESTED MOTION

“I move to adopt the text amendments for Section 18-72, as related to outdoor dining, as discussed at the November 30, 2021 conference session and presented in attached items 11 and 12.”

And

“I further move to direct the Town Clerk to advertise the adoption of the zoning ordinance text amendments.”

Or

Other action deemed necessary by Council.