



PROPOSED ZONING ORDINANCE AMENDMENT FOR RESTAURANT 2 ADDITIONAL STANDARDS

Planning Commission

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Melvion Fulgham, Zoning Administrator



PURPOSE OF THE AMENDMENT

- **Update** Restaurant 2 conditions to better address late-night operational impacts and public safety concerns
- **Focus** standards on establishments with an ABC license, live entertainment, late-night hours, and larger occupancies
- **Align** Restaurant 2 standards more closely with recent Restaurant 3 policy direction where operating characteristics are similar
- **Address** gaps in the current ordinance related to security, third-party promotions, and window transparency

EXISTING RESTAURANT 2 CONDITIONS



Current Restaurant 2 Conditions

- Hours with ABC license: 5:00 a.m. - 12:00 a.m. *3-3(13)(a)*
- Live entertainment limited to 75 square feet
- No dance floor or similar open gathering space permitted
3-3(13)(e)(iv)
- Security Requirements: when live entertainment is occurring an attendant to monitor the ingress/egress points and parking area is required *3-3(13)(e)(vi)*

RESTAURANT USE COMPARISON



Type	RESTAURANT 1	RESTAURANT 2	RESTAURANT 3
APPROVAL PROCESS	By-right use	Zoning Administrator Permit required	Use Permit required (Planning Commission & Council)
ABC LICENSE	Not permitted	Permitted	Permitted
OPERATING HOURS	5:00 a.m. – 2:00 a.m.	Without ABC: 5:00 a.m. – 2:00 a.m. With ABC: 5:00 a.m. – 12:00 a.m.	Determined through Use Permit conditions
LIVE ENTERTAINMENT	Not permitted	Permitted with limitations	May exceed Restaurant 1 or 2 limitations through Use Permit review
ENTERTAINMENT AREA	Not applicable	Maximum 75 square feet	Evaluated through Use Permit conditions

SURROUNDING LOCALITIES



Locality	Newport News	Norfolk	Suffolk	Virginia Beach	Portsmouth
ALCOHOL SALES PERMITTED	YES	YES	YES	YES	YES
RESTRICTED HOURS OF LIVE ENT.	Restricted after 11:00 PM	Restricted after 2:00 AM	Restricted after 10:00 PM	Restricted after 12:00 AM	Restricted after 12:00 AM
SECURITY PLAN REQUIRED?	YES	YES	Conditional	YES	YES
3RD PARTY PROMOTION PERMITTED?	NO	Conditional	Conditional	NO	NO

SURROUNDING LOCALITIES



Locality	Norfolk	Suffolk	Virginia Beach	Portsmouth
INGRESS & EGRESS MONITORING	YES	YES	YES	YES
PARKING LOT MONITORS	YES	YES	YES	YES
TYPICAL MINIMUM STANDARDS	1 per entrance + 1 for parking (ratio may increase by size)	1 per entrance + 1 for exterior when required by UP	1 per entrance + 1 for parking (may increase with UP)	1 per entrance + 2 exterior

SURROUNDING LOCALITIES SUMMARY



Security required when:

- ABC license
- Live entertainment
- Late-night hours
- Occupancy above 100 patrons (Newport News)

Third-Party Promotion:

- Portsmouth: Prohibits third-party promoters by zoning ordinance
Sec. 40.2-217(G)(5)(b)(x)
- Norfolk: Restricts third-party promoters through Conditional Use Permit (CUP) conditions
Standard condition prohibits leasing or use by third parties to stage events for profit



AMENDMENT FRAMEWORK

The proposed amendment would:

- Establish clear conditions for when security is required
- Distinguish live entertainment from lower-intensity entertainment formats
- Prohibit third-party promotions
- Require window transparency during evening operating hours to support visibility and oversight

CRITERIA FOR SECURITY REQUIREMENT



IF ALL FOUR (4) CONDITIONS EXIST WITHIN A RESTAURANT 2:

1. SERVES ALCOHOL (ABC LICENSE)
2. LIVE ENTERTAINMENT (INTENSIVE)
3. PERMITTED FOR ONE-HUNDRED (100) OR MORE OCCUPANTS
4. HOURS BEYOND 11:00 P.M.

MUST MEET SECURITY REQUIREMENTS FROM 11:00 P.M.-12:30 A.M.



LIVE ENTERTAINMENT COMPARISON

EXISTING *Live entertainment*

Any artistic, musical or theatrical performance, including but not limited to, karaoke, open-microphone, live vocal or instrumental music, recorded music with a disc jockey (DJ), play, stand-up comedy, dance act, magic, poetry reading, reenactment, cabaret, or any combination thereof, performed by one (1) or more persons, whether or not they are compensated for the performance, in a privately owned premises that is open to the public, whether or not admission is charged.

PROPOSED *Live entertainment.*

Any artistic, musical, or theatrical performance delivered by one (1) or more performers in real time to an in-person audience at a privately-owned establishment that is open to the public (whether or not admission is charged). “Live entertainment” does not include the playback of pre-recorded material, or any live performance delivered remotely by electronic means, if such material or remote performance is not delivered in conjunction with a live, in-person performance.



PROPOSED DEFINITIONS

Live entertainment, incidental. Any live entertainment involving no performance other than the playing of one musical instrument, one human vocal performance, or both together. “Incidental live entertainment” may include (without limitation) musical performances, live comedy, trivia games, and spoken word performances meeting the definition in the previous sentence.

Live entertainment, intensive. Any live entertainment that does not meet the definition of Live Entertainment, incidental, including without limitation the playing of two or more musical instruments; two or more human vocal performances; or any live, in-person performance incorporating pre-recorded material, such as (without limitation) karaoke and any form of DJing or disc jockeying.

Disc jockeying (or DJing). A type of live entertainment in which a performer selects, mixes, and plays pre-recorded audio for an in-person audience in real time.



PROPOSED DEFINITIONS

Third-party promotion. Any transaction in which the operator of a Restaurant 2 or 3 establishment authorizes an unaffiliated promoter, organizer, host, or performer to promote an event at that establishment, if the promoter’s compensation for such promotion or event is an amount per attendee or a percentage of the revenue from the event. “Third-party promotion” includes (without limitation) “VIP access,” “DJ room,” or similar arrangements where patrons pay an unaffiliated promoter for special access or services at the establishment. “Third-party promotion” also includes (without limitation) any transaction in which the operator, in exchange for a fee, temporarily relinquishes control over the establishment to an unaffiliated organizer who conducts an event at the establishment for the organizer’s profit. An establishment operator’s engagement of third-party advertising services does not constitute “third-party promotion” if the advertiser is not compensated based on attendance at, or revenues from, a particular event. As used herein, a promoter is “unaffiliated” if the promoter is not an owner, partner, or manager of the establishment.



SECURITY REQUIREMENTS

When the security threshold is met, the following would be required:

- Minimum of one (1) DCJS-certified security officer per 100 occupants (1 per 100 operational recommendation from HPD) to monitor the interior, including ingress and egress points
- Minimum of two (2) additional DCJS-certified security officers to monitor any parking areas and immediate exterior premises
- Applicable during operating hours from 11:00 p.m. until thirty minutes after closing

SECURITY REQUIREMENTS CONT.



- Minimum two (2) exterior cameras for the purpose of effectively monitoring the entryways and parking areas and shall be connected to Hampton Police Department Real Time Information Center (RTIC)
- ID scanner for the purpose of verifying the age of all patrons from 8:00 PM to closing, with records retained for a minimum of seven (7) days

STAFF RECOMMENDED AMENDMENTS



- **Security required when:**
 - ABC License
 - Live entertainment (Intensive)
 - Hours beyond 11:00pm
 - Total occupancy of establishment exceeds 100
- If all four conditions are not met, these security requirements do not apply

STAFF RECOMMENDED AMENDMENTS



- Prohibit third-party promoters
- Window transparency requirements - only after dark (based on business owner feedback requesting flexibility to manage patron comfort during daylight hours)
- Before any zoning administrator permit for a Restaurant 2 establishment with “Live entertainment, intensive” may issue, the applicant shall request and attend a meeting with the Zoning Administrator or their designee to review and affirm compliance with the requirements of this section and any other requirements contained in the zoning administrator permit.

STAFF RECOMMENDED AMENDMENTS CONT.



- **Section 3-3(13)(d):** A floor plan shall be provided showing the major features pertinent to the Restaurant 2 use, including (without limitation) all points of ingress and egress for patron use, kitchen and staff areas, bar areas, bathrooms, dining areas including the arrangement of all tables and chairs, any event spaces or other public spaces not primarily used for dining, and any performance area. Once approved by the city, the floor plan shall become binding;
 - **Existing language:** A floor plan shall be provided showing the arrangement of all tables, chairs, and performance area, if any, which once approved by the city, shall become binding;

ADDITIONAL REVOCATION STANDARD



- When a Restaurant 3 Use Permit has been revoked, the business would not be eligible to obtain a Restaurant 3 Use Permit or Restaurant 2 Zoning Administrator Permit for one (1) year following revocation.

CONCLUSION



- Public Hearing
- Staff recommends **APPROVAL** of ZOA26-0195