

1 **Ordinance To Amend And Re-Enact The Zoning Ordinance Of The City Of Hampton,**  
2 **Virginia By Amending Section 3-3, “Additional Standards on Uses,” To Amend Standards**  
3 **Applicable to the Restaurant 2 Use.**

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5 **WHEREAS**, the public necessity, convenience, general welfare and good zoning practice so  
6 require;

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8 **BE IT ORDAINED** by the City Council of the City of Hampton, Virginia that Section 3-3 of the  
9 Zoning Ordinance of the City of Hampton, Virginia be amended to read as follows:

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11 **CHAPTER 3 – USES PERMITTED**

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15 **Section 3-3. – Additional standards on uses.**

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17 The following uses have additional standards:

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21 (13) *Restaurant 2* in the C-1, C-2, C-3, M-1, M-2, LFA-2, RT-1, BB-3, BB-4, BB-5, HRC-1, HRC-  
22 2, HRC-3, LBP, DT-1, DT-2, PH-1, PH-2, PH-3, FM-1, FM-2, FM-3, and FM-4 districts shall  
23 obtain a zoning administrator permit and comply with the following additional standards:

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25 (a) The hours of operation of the restaurant shall not extend beyond 5:00 a.m. to 2:00 a.m.  
26 when the restaurant does not have a retail alcoholic beverage license. For restaurants with  
27 a retail alcoholic beverage license ("ABC"), the hours of operations of the restaurant shall  
28 not extend beyond 5:00 a.m. to 12:00 a.m.;

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30 (b) The restaurant shall maintain compliance with all applicable federal and state laws and  
31 requirements of licensing agencies, including but not limited to ABC licensing;

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33 (c) The restaurant shall be subject to the provisions of the Hampton Zoning Ordinance and  
34 Hampton City Code, to include, but not be limited to, noise, setbacks, and building code  
35 requirements;

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37 (d) A floor plan shall be provided showing the arrangement of all tables, chairs, and  
38 performance area, if any, which once approved by the city, shall become binding;

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40 (e) Any live entertainment shall comply with the following conditions:

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42 (i) Live entertainment shall not be permitted in the M-1, M-2, LFA-2, HRC-1, HRC-2,  
43 and HRC-3 zoning districts;

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45 (ii) Live entertainment shall be conducted inside the building only;

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47 (iii) The performance space shall be seventy-five (75) square feet or less;

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49 (iv) The layout approved in the submitted floor plan shall remain in place for live  
50 entertainment performances and no dance floor or similar open gathering space  
51 shall be permitted; and

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(v) The hours of live entertainment shall not extend beyond the hours of operation of the restaurant. ~~and~~

~~(vi) Each ingress/egress point in the establishment shall be monitored by an attendant during the hours of live entertainment. The establishment shall provide an additional attendant(s), as may be determined necessary by the zoning administrator, to monitor vehicle parking areas that serve the establishment in order to control patron behavior upon exit of the building into the parking areas and maintain compliance with these conditions and other City Code requirements.~~

(f) Any outdoor dining shall comply with the following conditions:

- (i) Outdoor dining shall not be permitted within the M-1, M-2, LFA-2, HRC-1, HRC-2, and HRC-3 zoning districts;
- (ii) Within the DT-1, DT-2, PH-1, PH-2, PH-3, FM-1, FM-2, FM-3, and FM-4 districts, the hours of operation of the outdoor dining area shall not extend beyond the hours of operation of the restaurant.
- (iii) Within the C-1, C-2, C-3, RT-1, BB-3, BB-4, BB-5, and LBP districts, the hours of operation of the outdoor dining area shall not extend beyond 5:00 a.m. to 10:00 p.m.;
- (iv) The proposed outdoor dining operation and location will not significantly interfere with the pedestrian traffic or otherwise constitute a health and safety risk, as determined by the zoning administrator;
- (v) The outdoor dining area shall be clearly delineated through use of barriers, landscaping, surface materials, or other similar means as determined by the zoning administrator;
- (vi) Tables, chairs and other furniture placed outdoors shall be readily available for use. Any furniture which is not readily accessible may not be stored outside, but must be stored within a wholly enclosed structure; and
- (vii) All outdoor lighting shall be focused downward and inward in a way that prevents spillover onto adjacent properties.

(g) Restaurants with drive-throughs or drive-ins are not permitted in the M-1, M-2, LFA-2, HRC-1, HRC-2, HRC-3, DT-1, DT-2, PH-1, PH-2, PH-3, FM-1, FM-2, FM-3, and FM-4 zoning districts.

(h) In addition to the foregoing requirements, any restaurant which (i) seeks to operate later than 11:00 p.m., (ii) seeks to conduct "Live entertainment, intensive" as defined in this zoning ordinance after 11:00 p.m., (iii) has a retail alcoholic beverage license, and (iv) has a maximum occupancy of more than 100 as determined by applicable law, must obtain a zoning administrator permit specifically authorizing such live entertainment in conjunction with the Restaurant 2 use, which zoning administrator permit shall contain the following conditions:

(i) Security requirements.

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(1) At all times beginning at 11:00 p.m. and ending 30 minutes after the restaurant has closed, the restaurant must continuously maintain security officers to monitor and control patron behavior as follows:

- (a) At least one (1) security officer must be stationed at each point of ingress/egress into the restaurant;
- (b) At least one (1) security officer must be stationed inside the restaurant for each 100 individuals (or fraction thereof) who may occupy the restaurant at the maximum occupancy load established by applicable law; and
- (c) At least two (2) security officer must patrol any parking lot serving the restaurant.

(2) For the purpose of this Section, "security officer" means a person certified by the Virginia Department of Criminal Justice Services as (1) an unarmed security officer pursuant to Virginia Code Sections 9.1-138 and 9.1-139, or (2) a law enforcement officer pursuant to Virginia Code Section 15.2-1706, as such statutes may be amended.

(3) For the purpose of this Section, "monitor and control patron behavior" means to take all reasonable measures to prevent an act of violence from occurring on the restaurant premises, the parking areas for the restaurant, or any public property immediately adjacent to the restaurant.

(ii) No exterior or interior window treatment including (without limitation) film, tint, blinds, curtains, shades, shutters, or other devices used to cover windows may be installed in a manner that would impede visibility into the restaurant when the restaurant is operating during hours of darkness.

(iii) No restaurant may engage in or otherwise permit third-party promotion as that term is defined in this ordinance.

(iv) Every restaurant shall install security cameras to surveil each point of ingress and egress to the restaurant, and shall connect such cameras to the Hampton Police Department's Real-Time Information Center ("RTIC") system.

(i) The zoning administrator, or their designee, shall have the ability to revoke the zoning administrator permit upon violation of any of the above conditions.

(j) No establishment operating under a Restaurant 3 use permit which is revoked pursuant to Section 14-11 of this ordinance may obtain a zoning administrator permit for any Restaurant 2 use until one (1) year after such revocation.