



PROPOSED ZONING ORDINANCE AMENDMENT FOR RESTAURANT 2 ADDITIONAL STANDARDS

Initiating Resolution 26-0054
Council Work Session Briefing
May 13, 2026

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
 - Performance space limited by Zoning Ordinance *3-3(13)(e)(iii)*
 - 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)*



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

SURROUNDING LOCALITIES



Locality	Newport News	Norfolk	Suffolk	Virginia Beach	Portsmouth
Alcohol Sales Permitted	YES	YES	YES	YES	YES
Restricted Hours of Live Entertainment	Regulated after 11:00 PM	Restricted between 2 AM – 6 AM	Restricted between 10 PM – 7 AM	Restricted between 12 AM – 6 AM	8:00 AM – 12:00 AM
Security Plan Required?	YES	YES	Conditional	YES	YES
3 rd Party Promotion Permitted?	NO	Conditional	Conditional	NO	NO

SURROUNDING LOCALITIES



Locality	Norfolk	Suffolk	Virginia Beach	Portsmouth
Ingress/Egress Monitoring	YES	Conditional	YES	YES
Parking Lot Monitors	YES	Conditional	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 requirements 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.



PROPOSED DEFINITIONS

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 to monitor the interior, including ingress and egress points
- Minimum of two (2) additional DCJS-certified security officers to monitor the any parking areas and immediate exterior premises
- Security staffing maintained during the applicable late-night period established by the ordinance
 - Applicable during operating hours after 11:00 p.m.



SECURITY REQUIREMENTS CONT.

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

- 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 11:00 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



- Additional Security Requirements:
 - Prohibit third-party promoters
 - Window transparency requirements - only after dark
 - Continue to limit live entertainment area (<75 sq ft)