



## Legislation Text

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**File #:** 19-0277, **Version:** 1

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Ordinance To Amend And Re-Enact Chapter 3 Of The Zoning Ordinance Of The City Of Hampton, Virginia Entitled "Uses Permitted" By Amending Section 3-3 Pertaining to Additional Standards For Live Entertainment 1

### **Background Statement:**

Last winter the definition of live entertainment 1 and the associated additional standards were amended to make it easier for restaurants to provide live entertainment for dining patrons. However, one particular standard has proven to be problematic for older, and typically smaller, locations. The current standards require a restaurant to meet today's parking standards prior to being permitted live entertainment. The City would like to be more supportive of restaurants that are either long standing or making an attempt at reusing an older commercial space, of which the city of Hampton has many. Therefore, this zoning ordinance amendment proposes eliminating the standard requiring today's parking standard be met.

The logic behind this proposal goes beyond merely wishing to support the continued use and investment in older development. When the previous live entertainment 1 amendments were adopted, a key element of defining live entertainment 1 was that the live entertainment would be an amenity to dining with tables and chairs remaining in place and no dance floor or similar standing room space would be provided. Therefore, it reasoned that the number of patrons accommodated with the addition of live entertainment would be no different than the restaurant accommodated without live entertainment. Therefore, if the restaurant can legally operate without live entertainment while providing the number of spaces it has, even if that number does not meet today's standard, the restaurant should be able to provide live entertainment 1 while maintaining its legally nonconforming status and operate with that same number of parking spaces.

This change only affects live entertainment 1. Live entertainment 2, which can provide for features such as outdoor entertainment, longer operating hours, a larger performance space, and a dance floor, will continue to require a use permit with each proposal considered on a site by site basis.

### **Recommendations:**

Staff Recommendation:

Approval

Planning Commission Recommendation:

Approval

**Whereas**, the public necessity, convenience, general welfare and good zoning practice so require;

**BE IT ORDAINED** by the Council of the City of Hampton, Virginia that Chapter 3, Section 3-3 of the Zoning Ordinance of the City of Hampton, Virginia, be amended and re-enacted as follows:

## **CHAPTER 3 - USES PERMITTED**

### **Sec. 3-1. - Uses permitted, in general.**

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### **Sec. 3-2. - Table of uses permitted.**

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### **Sec. 3-3. - Additional Standards on uses.**

The following uses have additional standards:

- (1) *One-family detached dwelling.*

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- (22) *Live entertainment 1*, in conjunction with a restaurant or micro-brewery/distillery/winery use, as specified in the Sec.3-2 table of uses permitted.

Live entertainment 1 venues are defined as venues providing live entertainment only within the building, without a dance floor or similar gathering area, and having performance space of 75 square feet or less. Any other live entertainment venue is considered a live entertainment 2 venue.

Live entertainment 1 is subject to a live entertainment zoning administrator permit with the following attached conditions:

- (a) Live entertainment shall be conducted inside the building only;
- (b) A floor plan shall be provided and approved showing the arrangement of tables, chairs, and performance area. The layout shall remain in place for live entertainment performances and no dance floor or similar open gathering space shall be permitted;
- (c) The hours of operation for live entertainment shall not extend past 10:00 p.m. Sunday through Thursday and 11:59 p.m. Friday and Saturday;
- (d) The live entertainment shall comply with section 22-9 of the City Code, as amended, pertaining to noise.
- (e) Each ingress/egress point in the building shall be monitored by an attendant during the hours of operation, and additional attendants may be required to monitor vehicle parking areas that serve the building and maintain and control patron behavior upon exit of the building into the parking areas;
- (f) The restaurant or micro-brewery/distillery/winery shall maintain compliance with all applicable federal and state laws and requirements of licensing agencies, including but not limited to ABC licensing;
- (g) The live entertainment permit shall be valid for eighteen (18) months from the date of approval by the zoning administrator. After twelve (12) months of operation, prior to the expiration date, the live entertainment permit will be scheduled for review by the zoning administrator to consider if the continuation of the live entertainment permit would not be detrimental to the public health, safety and welfare and that to continue the activities under the live entertainment permit would not cause public inconvenience, annoyance, disturbance or have an undue impact on the community or be incompatible with other uses of land in the zoning district. The review will be based, in part, upon a physical site review, traffic flow and control, access to and circulation within the property, off-street parking and loading, hours and manner of operation, noise, light, neighborhood complaints, police service calls, and any violations of any federal, state or local law. If, after review, the zoning administrator determines that the live entertainment permit would not be detrimental to the public health, safety and welfare and that to continue the activities under the live entertainment permit would not cause public inconvenience, annoyance, disturbance or have an undue impact on the community or be incompatible with other uses of land in the zoning district, the zoning administrator may administratively extend the live entertainment permit in five-year increments. Each such extension shall be subject to the same administrative review. If the zoning administrator

determines that that the live entertainment permit would be detrimental to the public health, safety and welfare and that to continue the activities under the live entertainment permit would cause public inconvenience, annoyance, disturbance or have an undue impact on the community or be incompatible with other uses of land the zoning district, the zoning administrator will notify the permittee of a denial of the extension in writing in the same manner as required under chapter 1 of the zoning ordinance. A permittee aggrieved by the decision of the zoning administrator may appeal the decision of the zoning administrator to the board of zoning appeals in the manner set forth in chapter 13 of the zoning ordinance. Nothing contained herein shall limit the rights of a permittee to seek a new live entertainment permit; and

- (h) The zoning administrator, or appointed designee, shall have the ability to revoke the live entertainment permit upon violation of any of the above conditions.