

ZO 112.2-2024-5

ADOPTION OF AN AMENDMENT TO CHAPTER 112.2

(ZONING)

OF THE 1976 CODE OF THE COUNTY OF

FAIRFAX, VIRGINIA

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium, Lobby Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday, February 6, 2024, the Board after having first given notice of its intention so to do, in the manner prescribed by law, adopted an amendment to Chapter 112.2 (Zoning) of the 1976 Code of the County of Fairfax, Virginia, said amendment so adopted being in the words and figures following:

*BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY,
VIRGINIA:*

Amend Chapter 112.2 (Zoning Ordinance), as follows:

Amend subsection 4102.7 by adding new subsection (L) Outdoor Dining as shown below and renumbering the remaining subsections accordingly.

ARTICLE 4 - USE REGULATIONS

4102. Use Standards

Each use must comply with its related standards, including standards for all uses, standards for the zoning district where the use is located, and standards for the specific use. Uses established as of the effective date of this Ordinance may not be altered, modified, or enlarged in any way that conflicts with, or compounds an existing conflict with, the use standards.

7. Accessory Uses

L. Outdoor Dining

Standards applicable to all outdoor dining areas:

- (1) Outdoor dining is permitted as accessory to the following uses or when approved as part of a site plan unless the use is expressly prohibited by any applicable proffered condition, development condition, special permit, or special exception condition.
 - (a) Restaurant;
 - (b) Carryout restaurant;
 - (c) Restaurant with drive-through;
 - (d) Craft beverage production establishment; and
 - (e) Any other similar use with a valid Nonresidential Use Permit and that has a food establishment permit.
- (2) All outdoor dining must be in accordance with the following standards:
 - (a) The outdoor dining area for any single food establishment may not exceed an area equal to 50 percent of the indoor dining floor area of the establishment. Additionally, for any outdoor dining area serving multiple establishments, the total area devoted to outdoor dining may not exceed an area equal to 50 percent of the total combined indoor dining floor area for all establishments.
 - (b) The hours of operation must generally conform to the business hours of the principal use.
 - (c) Any area used for outdoor dining must be clearly delineated by cordon, marking, or other means. All outdoor dining areas must be located entirely on impervious surfaces.
 - (d) The outdoor dining area may not obstruct any fire equipment, building entrance or exit, area marked or designated for emergency egress or ADA accessibility, or

pedestrian passage on any trail or sidewalk.

- (e) All tables, chairs, umbrellas, lighting, and other accessories must be temporary and removable. All tents must be maintained in good repair and safe condition.
- (f) A single tent larger than 900 square feet, or multiple tents separated by less than 12 feet and exceeding a combined area larger than 900 square feet, requires a permit from the Office of the Fire Marshal. All tents, regardless of size, must be securely anchored to prevent collapse or uplift during inclement weather.
- (g) Outdoor heaters are not permitted under any tent unless approved by the Office of the Fire Marshal.
- (h) No business sign or advertisement is permitted in the outdoor dining area, except as permitted by Article 7.
- (i) The outdoor dining area must be kept free of trash and debris. Any extension cords associated with audio or video entertainment equipment may not create a tripping hazard and should meet all other County, State, and Federal Codes.
- (j) Outdoor dining areas are subject to all applicable provisions of the County Code and federal and state codes.

Standards when permitted by administrative permit:

- (3) Outdoor dining located in a parking lot must comply with the following standards:
 - (a) The outdoor dining area may not reduce the number of available parking spaces below the minimum required for the site.
 - (b) The outdoor dining area may not be located in any designated accessible parking spaces, access aisles, street accesses for fire department vehicles, or parking lot landscaping that is located in or part of the parking lot.

Amend Article 8 – Administration, Procedures, and Enforcement, Section 8102. General Terms to add a new fee for outdoor dining as shown below.

ARTICLE 8 – ADMINISTRATION, PROCEDURES, AND ENFORCEMENT

8102. Fee Schedule

TABLE 8102.1: FEE SCHEDULE

This table includes standard fees related to approvals under the Zoning Ordinance. Additional fees may apply related to review or approval by other County departments or governmental or quasi-governmental agencies, or in accordance with Appendix Q of the County Code.

APPLICATION TYPE	FEE [1]
ADMINISTRATIVE PERMITS	
General Fee Unless Otherwise Listed	\$205
Accessory Uses	
Outdoor Dining	\$205

Amend Article 9 – Definitions and Ordinance Interpretations, Section 9102. General Terms to add a new definition for outdoor dining as shown below.

ARTICLE 9 - DEFINITIONS AND ORDINANCE INTERPRETATION

9102. General Terms

Outdoor Dining

An accessory outdoor seating area that is intended solely for the consumption of food and beverages, served by an adjoining food establishment, does not include permanent structures, and is outside the confines of the principal structure. This use does not include any use meeting the definition of a public entertainment use.

Amend Article 9 – Definitions and Ordinance Interpretations, Section 9103. Uses to edit the definition of a carryout restaurant as shown below.

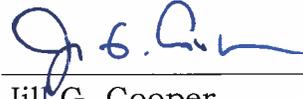
9103. Uses

Restaurant, Carryout

Any establishment whose primary business is to prepare and sell ready-to-consume food or beverages, primarily for consumption off-site. Up to eight indoor seats may be provided for on-site consumption or customer waiting; the seats provided as part of accessory outdoor dining provided in accordance with subsection 4102.7 are not included in this maximum limitation. A restaurant with more than eight seats is considered a restaurant. A carryout restaurant does not include a restaurant with drive-through facilities, convenience store, or craft beverage production establishment.

This amendment shall become effective on February 7, 2024, at 12:01 a.m., with a grace period until April 30, 2024, to allow existing outdoor dining areas to come into compliance with the new standards.

GIVEN under my hand this 6th day of February, 2024.



Jill G. Cooper
Clerk for the Board of Supervisors