



# Future of Outdoor Dining (FOOD) Study

County Board

June 13, 2023



# Recommended Framework- Key Elements

## 1. Zoning Ordinance Amendments

- Permit allowing outdoor seating in public spaces via administrative review
- Ability for County Board modification of parking requirements for seats located on required private parking spaces
- Other amendments to further study goals & recommendations

**Subjects of  
June RTA**

## 2. Encroachment Ordinance & Outdoor Café License (New County Code Chapter)

- Administrative process/ requirements for outdoor café license, application and fee

## 3. Update the County's Outdoor Café Guidelines (last updated in 2013) to include the following elements:

- Introduction, Purpose & Goals
- Application & Permit Process
- Guidance for clear sidewalk widths
- Pedestrian Safety, ADA & Accessibility
- Fire & Building Code, Tents & Heaters

**Administrative  
Document  
(no County  
Board action)**

A photograph of an outdoor cafe patio. The scene is filled with wooden tables and chairs arranged under large blue and red umbrellas. In the background, there are buildings and a rainbow flag flying. The entire image has a blue tint. A large white text overlay is centered on the image.

# Zoning Ordinance Regulations & Guidance for Outdoor Cafes



# Background

## Outdoor Cafes- Current Approval Process

- **Guidelines for Outdoor Cafes (2013)**
  1. **Private Property**- Administrative approval
  2. **Public R.O.W. or Public Spaces**- Site Plan or Use Permit approved by County Board

## ARLINGTON COUNTY GUIDELINES FOR OUTDOOR CAFÉS

August 10, 2012  
Updated: May 18, 2013



# Applicable Policies and Regulations for Outdoor Cafes

- Guidelines for Outdoor Cafes (last updated in 2013)
- Arlington County Zoning Ordinance- Section 14 & 12.9.15
- Arlington County Retail Plan (2015)
- Master Transportation Plan (MTP) Pedestrian Element (2011)
- Public Spaces Master Plan (2019)
- Virginia Statewide Universal Building Code (VASUBC)
- Virginia Statewide Fire Prevention Code (VAFFPC)
- Virginia Alcoholic Beverage Control Authority (VA ABC)
- Guidance for Tents and Heaters
- Encroachment Ordinance (Public ROW)



A photograph of an outdoor dining area, likely a patio or deck, featuring several wooden tables and chairs. Large blue umbrellas with the 'Cuervo' logo are positioned over the seating. In the background, a rainbow flag flies on a tall pole. A chalkboard sign in the foreground reads 'Namara's 50% OFF bar drinks M-F 3pm-5pm'. Another sign to the left says 'JACK LIVES HERE We're good Thanks for Mucking'. The scene is set against a clear blue sky with some buildings and trees in the distance.

# Temporary Outdoor Seating Areas (TOSAs)



# TOSA Overview

- **TOSAs were established in 2020 to help restaurants and businesses during the COVID-19 pandemic**
  - Flexible Design & Operational Guidelines established
  - Online submission process
    - Interdepartmental staff review team
    - Approved by County Manager through Continuity of Governance Ordinance
- **Approx. 100 TOSAs (public & private)**
- **TOSAs will expire August 15<sup>th</sup>, 2023**





# Outdoor Café – TOSA Examples





# Outdoor Café- TOSA Examples

**TOSAs in private parking spaces**



**TOSAs with pedestrian path in street parking lane**





# Phase 1 Engagement- What we heard

## Overview of Community Priorities and Considerations w/ TOSAs

Priorities	Concerns
<b>Support for local businesses</b>	<ul style="list-style-type: none"><li>• Varying demands/needs for different types of restaurants &amp; neighborhoods as well as the need for recovery &amp; resiliency within the restaurant industry</li></ul>
<b>Enjoyment of outdoor dining options that provide for vibrant streetscapes</b>	<ul style="list-style-type: none"><li>• Safety while dining in streets or parking areas</li></ul>
Provide adequate space for <b>safe, accessible pedestrian circulation</b>	<ul style="list-style-type: none"><li>• Congested sidewalks</li><li>• ADA &amp; accessible routes not clear</li></ul>
<b>Support for TOSAs and reduction of parking for expanded outdoor dining options on private property</b>	<ul style="list-style-type: none"><li>• Parking availability if used for circulation or outdoor dining</li><li>• Safety and protection from vehicles</li><li>• Cleanliness, maintenance of spaces</li></ul>
<b>Streamline the process</b>	<ul style="list-style-type: none"><li>• Costly &amp; Lengthy review time</li></ul>





Item # 43  
Zoning Ordinance  
Amendments



# Staff Analysis & Recommendations

## Existing & Proposed Process

Approval Path	Existing Standards	Proposed Standards
By-right (administrative)	1) Private property, unencumbered by public easements	1) Private property, unencumbered by public easements 2) Public sidewalks within rights-of-way <ul style="list-style-type: none"> <li>• Includes utility/street easements</li> <li>• Excludes travel-way or parking space</li> </ul>
County Board Use Permit	2) Public rights-of-way; public easements on private property, including 3) POPS	3) Privately owned public spaces (POPS)





# Summary of Proposed Zoning Amendments

## Proposed Text Changes:

- **Article 12 Outdoor Cafes** to reflect proposed changes for the approval process:
  1. **Privately-owned Public Spaces (POPS)**
    - Requirement for outdoor café license (new Chapter 70)
    - Meets ACZO use standards
  2. **Public Property (sidewalks)**
    - Requirement for outdoor café license (new Chapter 70)
    - Meets ACZO use standards
    - Clear sidewalk dimension of 6-feet (or site plan requirement, if greater)
    - Location in front of restaurant
    - Sound/ entertainment not permitted adjacent to residential\*
  3. **Private Property**
    - Use of AZCO required parking for outdoor café by use permit approval when use standards are met



# Summary of Proposed Zoning Amendments

## Proposed Text Changes:

- **Articles 7 & 8 Commercial & Industrial Districts Use Tables-** Editorial changes to reflect proposed changes for the approval process for outdoor cafés
- **Article 14-Parking-** Editorial changes to resolve regulatory conflicts with allowing outdoor cafes in off-street parking spaces
  - Use permit for outdoor cafes located on ACZO required parking spaces subject to use standards
- **Article 18: “Public space, privately owned-** New Definition to distinguish POPS from other public easement areas (sidewalks)
  - Use permit for outdoor cafe(current practice)



A photograph of an outdoor dining patio, likely at a restaurant or bar. The patio is furnished with wooden tables and chairs. Several large, dark blue umbrellas are open, providing shade. In the background, there are buildings and a rainbow flag flying. The scene is set during the day, with shadows cast on the ground. The text is overlaid on the image in white.

**Item # 44**  
County Code Chapter 70  
Encroachment into Public Spaces



# Chap. 70 of County Code - Encroachment into Public Spaces

## Purpose of Chapter 70 of County Code

- Will facilitate administrative review and approval process for certain encroachments meeting required standards
- Simplifies and accelerates approval process for specified encroachments by avoiding the need to obtain an encroachment ordinance
- Provides a list of features that are permitted without an ordinance of encroachment or license



# Chap. 70 of County Code - Encroachment into Public Spaces

**Physical encroachments that will not require an Ordinance or compensation, if standards are met:**

- Canopies
- Awnings
- Projecting Signs
- Architectural Features
- Stoops/Stairs
- Planters, fencing, tables, chairs, benches and other similar items
- Bicycle racks, street furniture

**All other features that don't meet standards will still require an Encroachment Ordinance through County Board approval process**



# Chap. 70 of County Code - Encroachment into Public Spaces

## Outdoor Café Licensing Administrative Process

- An Outdoor Café License will be required for cafés located within a Public Space
- The café must meet the design requirements set forth in Chap. 70
  - No elements permanently affixed to the real property
  - Low barriers/fences can be attached, if surface can be capped/made flush
  - Not located within fire lanes, bicycle lanes, travel ways, loading docks, transit stops or emergency vehicle access areas
- Must have Building Permit and Occupancy Permit
- Must submit application with consent of owner (if different from Applicant) with detailed plans of café area and pay \$150 Application Fee
- Will require payment of Annual License Fee based on square footage of café area, per schedule of fees to be adopted by the County Board starting in FY 2025.

# Commission Review

- ✓ 5/9- Zoning Committee
- ✓ 5/25- Transportation Commission (info)
- ✓ 6/5- Pedestrian Advisory Committee
- ✓ 6/6- Zoning Committee Meeting
- ✓ 6/7- Chamber of Commerce
- ✓ 6/13- Economic Development Commission
- **6/13- County Board Request to Advertise**
  - Zoning Ordinance Amendments
  - Encroachment Ordinance
- **6/20- Park and Recreation Commission**
- **6/29- Transportation Commission (action)**
- **7/3- Planning Commission**
- **7/15- County Board- Action**
  - Zoning Ordinance Amendments
  - Encroachment Ordinance





# Engagement & Communications

- **Time Period:** June 15 – August 15

COMMUNICATION & ENGAGEMENT PRODUCTS/TASKS	PRODUCT/MATERIAL	TIMING
<b>Categorize Outdoor Café by 6 Types</b>	Spread sheet with staff assignments <ul style="list-style-type: none"> <li>• Use as an outreach tracker post-Board action</li> </ul>	In progress
<b>Notification of RTA</b>	<ul style="list-style-type: none"> <li>• Email newsletter; Letter to owner of record- Potential information to include:</li> <li>• TOSA categories and how to determine which they are in</li> <li>• How to follow the Board review process</li> <li>• How information will be shared with them after Board action</li> </ul>	After June 13
<b>Website Updates</b>	<ul style="list-style-type: none"> <li>• Links to relevant presentations</li> <li>• FAQ (as it is ready)</li> <li>• Category information</li> <li>• Link from AED website</li> </ul>	After June 13
<b>In-person delivery to individual TOSA holders</b>	Individual packets tailored to the different TOSA scenarios with information on steps restaurants need to take to maintain their outdoor seating/TOSA after Aug. 15- <b>CPHD/AED/BizLaunch “Street Team”</b>	After July 15
<b>Email electronic copy of all material</b>	Include links to required documents and <b>intake form for questions</b> /and consultation appointments	After July 15
<b>Virtual Q&amp;A information sessions</b> (if needed based on intake form)	Teams, Facebook Live, other	TBD: (Tuesday afternoon and Saturday morning)
<b>Consultations</b>	Teams Meetings (or potentially in-person options)	Aug. 15 and beyond to facilitate business becoming compliant

# Anticipated Activity Post July CB Meeting

- In-person direct engagement with restaurants with TOSAs (mid/late July)
- Interested restaurants file pertinent applications (by August 15)
- Continuity of Government Ordinance Ends (August 15)
- Interdepartmental staff works to review applications (est. 90-120 days)
- Anticipated decisions made on administrative/use permit applications (late 2023)



# C.M. Recommendations

**Item # 43- Request to advertise public hearings by the Planning Commission on July 3, 2023, and by the County Board on July 15, 2023, to consider amendments to Articles 6, 7, 8, 12, 14 and 18 of the Arlington County Zoning Ordinance (ACZO) to permit outdoor seating in public rights-of-way by administrative review and permit the modification of parking requirements for seats located on ACZO required private parking spaces, and other items noted in the staff report as part of the Future of Outdoor Dining (FOOD) Study.**

**Item # 44- Adopt the resolution (attached to the staff report) to authorize the advertisement of a public hearing by the County Board on July 15, 2023, to consider an Ordinance to enact and codify a new Chapter 70 (Encroachment into Public Spaces) of the Code of Arlington County, Virginia to authorize owners or occupants of property abutting public streets, highways, roads, alleys, rights-of-way and property interests dedicated to or conveyed for public use to construct, own and maintain certain structures in, upon and over such public property, and use portions of such property for outdoor cafés, within the limitations, and upon such terms and conditions as, proscribed in such Chapter.**

A photograph of an outdoor dining area, likely a patio or terrace, featuring several tables and chairs. The scene is dominated by large blue umbrellas, some with the 'Cuervo' logo. A rainbow flag is visible in the background. In the foreground, a chalkboard sign reads 'McNamara's Happy Hour 50% OFF bar drinks M-F 3pm-5pm'. Other signs include 'JACK LIVES HERE We're good Thanks for Masking' and 'WE'. The overall atmosphere is casual and inviting.

Thank you