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2 **O-49-22**

3
4 **Planning and Zoning - Parking and Loading Regulations - Parking fee-in-lieu of meeting off-**
5 **street parking requirements.**
6

7 **AMENDMENT 11 – ALD. ARNETT**

8
9 **AMENDMENT:**

10 Strike pages 1 through 4 in their entirety and substitute the following:

11
12 **..Title**

13 **Outdoor Dining Requirements in Annapolis** – For the purpose of codifying and consolidating the
14 City's outdoor dining programs; defining outdoor dining and its different types; requiring permits
15 for outdoor dining; setting common standards for outdoor dining; setting a fund for outdoor dining
16 permit fees; alternative options for restaurants that use their parking lot for outdoor dining; and
17 generally dealing with restaurant standards for outdoor dining.

18 **..Body**

19 **CITY COUNCIL OF THE**
20 **City of Annapolis**

21
22 **Ordinance 49-22**

23
24 **Introduced by: Ald. Arnett**
25 **Co-sponsored by: Aids. Tierney**

26
27 **AN ORDINANCE** concerning

28
29 **Outdoor Dining Requirements in Annapolis**

30
31 **FOR** the purpose of codifying and consolidating the City's outdoor dining programs; defining
32 outdoor dining and its different types; requiring permits for outdoor dining; setting common
33 standards for outdoor dining; setting a fund for outdoor dining permit fees; alternative
34 options for restaurants that use their parking lot for outdoor dining; and generally dealing
35 with restaurant standards for outdoor dining.

36
37 **BY** enacting with amendments the following portions of the Code of the City of Annapolis, 2023
38 Edition:

39 **7.35**

40 **6.16.080**

41
42 **BY** repealing and reenacting with amendments the following portions of the Code of the City of
43 Annapolis, 2023 Edition

44 **21.48.020**

Explanation:

~~Strikethrough~~ indicates matter stricken from existing law.
Underlining indicates copyediting or reformatting of existing law
Underlining & red indicate new matter added to the code.

1 **21.64.540**
2 **21.64.540**
3 **7.42**

4
5 **SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY**
6 **COUNCIL** that the Code of the City of Annapolis shall be amended to read as follows:
7

8 **Title 7 - BUSINESS LICENSES, TAXES AND REGULATIONS**

9 **Chapter 7.35 - Outdoor Dining**

10
11 **7.35.010 - Purpose.** The purpose of this Outdoor Dining chapter is to allow restaurants the ability
12 to expand dining areas into outdoor spaces, creating a vibrant and pedestrian-friendly atmosphere
13 in our commercial districts and shopping centers that enhances the Annapolis dining experience for
14 residents and visitors; and ensuring that outdoor dining spaces are well-designed, taking into
15 account safety, public health, and welfare.

16
17 **7.35.020 - Definitions.**

- 18 1. "Director" means the City's director of planning and zoning.
- 19 2. "Outdoor Dining" means the act of eating a meal at a restaurant that has indoor seating but
20 where said meal is served and consumed outdoors in areas including, but not limited to,
21 patios, courtyards, plazas, decks, rooftops, sidewalks, streets, and parking lots.
- 22 3. "Rooftop Dining" is Outdoor Dining at a restaurant's open-air rooftop.
- 23 4. "Seasonal Parking Lot Dining" is Outdoor Dining at a restaurant that has expanded into a
24 private parking lot owned or leased by a restaurant and permitted by the City only during
25 limited times of the year.
- 26 5. "Sidewalk Café" is Outdoor Dining authorized by a lease with the City on a public
27 sidewalk located on the sidewalk fronting the restaurant.
- 28 6. "Street Café" is Outdoor Dining authorized by a lease with the City on a public street
29 designated for public parking, to be used for public consumption of food and beverages to
30 seated patrons of the adjoining restaurant.

31 **7.35.030 - General Requirements.**

- 32 A. **Applicability.** Any person owning, leasing, managing or operating a restaurant may
33 establish and operate Outdoor Dining provided the Planning and Zoning Director grants
34 them a lease or permit.
- 35 1. Outdoor Dining shall be permitted in any zone where restaurants are permitted as
36 designated in § 21.64.540 of Title 21 under the regulations in this chapter.

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1 2. Outdoor Dining must meet all zoning requirements of Title 21 before an applicant
2 can apply for a permit.

3 3. The Outdoor Dining standards expressed herein may supersede conditions
4 associated with outdoor dining that were previously applied.

5 **B. Permits.**

6 1. **Required.**

7 a. A person shall not construct, maintain, use or operate Outdoor Dining
8 without obtaining a permit or lease, as this chapter provides.

9 b. Outdoor Dining shall operate only as authorized under this chapter.

10 2. **Review.**

11 a. **Applications.** Outdoor Dining applications shall be submitted as special
12 exception per § 21.26 of Title 21.

13 i. Applications are filed through the Planning and Zoning
14 Department and will be reviewed per § 21.10.010 of Title 21;
15 and

16 ii. Applications shall include dimensions, barriers, furnishings,
17 shading, tent sizes, placement and other plan information as
18 required by the Director.

19 b. **Zoning Modification.** Modifying the number of restaurant seating for
20 Outdoor Dining areas shall not require reapplication of zoning permits.

21 c. **Exception Requests.** Any restaurant that wishes to claim a legacy
22 exemption or make any other exception request to this chapter must submit
23 a written application to the Director that the Board of Appeals will review.
24 The Director may decide additional fees are required to recover costs to the
25 City.

26 **C. Outdoor Dining Standards.**

27 1. **Standards and Uses.**

28 a. Outdoor Dining is subject to the following sections of the City Code:

29 i. Restaurant use subject to standards in § 21.64.540 of Title 21; and

30 ii. Food and beverage-related uses in § 21.64.300 of Title 21.

31 b. Outdoor Dining shall be considered part of the restaurant's gross floor area
32 for calculating fees and development regulations unless indoor dining
33 seating is reduced to the current establishment's approved seating count.

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- 1 2. **Location.** Outdoor Dining areas may be located within outdoor areas adjacent to
2 restaurants, such as private sidewalks, walkways, patios, etc.
- 3 3. **Hours of Operation.** Hours of operation shall be 8 a.m. to 10:00 p.m., seven days a
4 week.
- 5 4. **Alcoholic Beverages.**
- 6 a. The restaurant shall not sell, serve or allow consumption of alcoholic
7 beverages outside the establishment without obtaining an updated Alcohol
8 Beverage Control Board license that covers any expanded outdoor dining
9 areas.
- 10 b. Alcoholic beverages shall be served only in conjunction with food service.
- 11 5. **Noise.**
- 12 a. **Mitigation.** The design of the Outdoor Dining area shall include noise
13 mitigation measures that will minimize adverse impacts on adjoining
14 properties.
- 15 b. **Sound equipment, musical instruments and similar devices.** No noise
16 shall be heard beyond the property line in accordance with § 11.12.020 of
17 Title 11.
- 18 c. **Live entertainment and dancing.** No live entertainment or dancing shall be
19 permitted in the area designated for Outdoor Dining.
- 20 d. **Exception.** The City Council shall have the authority to grant sound
21 variances from this section after allowing public comment. Any person
22 seeking a sound variance under this section shall apply with the Director,
23 subject to a fee.
- 24 6. **Lighting.** Lighting shall be directed away from adjoining properties and streets and
25 designed to minimize glare.
- 26 7. **Furniture.** Any furniture used for Outdoor Dining shall meet the application or
27 lease agreement requirements.
- 28 a. Outdoor Dining furniture shall be secured as weather conditions require.
- 29 b. Outdoor dining furniture shall be removed nightly or secured overnight by a
30 means suitable to the City's satisfaction.
- 31 c. Outdoor dining areas shall not be used for storage.
- 32 8. **City Compliance.**
- 33 a. Outdoor Dining shall comply with all applicable building, health, safety,
34 fire, zoning and environmental standards.

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- 1 b. Outdoor Dining Areas shall be cleaned nightly, and adjoining sidewalk areas
2 shall be kept free of debris, litter, vermin and unsanitary conditions.

3 **9. ADA Compliance.**

- 4 a. All Outdoor Dining shall comply with the Americans with Disabilities Act
5 (ADA) and other applicable disability access laws and regulations.
6 b. All handicapped-accessible ramps, parking spaces, and walkways shall
7 remain fully accessible and not be used for outdoor dining.

8 **10. Historic Preservation Commission.**

- 9 a. Approval by the Historic Preservation Commission is required where the
10 Outdoor Dining application is:
11 i. Located within a historic district; or
12 ii. Located on a landmark site; or
13 iii. Attached to a landmark.
14 b. Outdoor Dining, as defined in this chapter, that was in existence in the C2
15 district as of November 13, 1995, under the authority of a lease agreement
16 with the City, may, at the option of the lessee, continue to operate under
17 either the existing terms of such lease agreement or the terms of this chapter.

18 **11. Additional standards.** Additional standards may apply for each type of outdoor
19 dining, either in the code below or by regulations.

- 20 **D. Fees.** Fees associated with activities permitted under this chapter will be determined by
21 annual resolution of the City Council. All fees generated shall be placed into the "Mobility
22 and Transportation Services Fund" as described in § 6.16.080 of Title 6.
- 23 **E. Indemnification agreement and insurance required.** Any establishment providing
24 additional outside seating for outdoor dining/café use shall, if the seating is on city-owned
25 or public property, agree to indemnify the city for all claims and fully insure, defending and
26 holding harmless the City and in their capacity as such, the officers, agents and employees
27 thereof from and against any claims and damages in any way arising out of or through the
28 acts or omissions of the permit holder or its employees in the construction, operation,
29 maintenance, use, placement or condition of the outdoor dining, specifically including
30 claims arising from the sale or provision of alcoholic beverages.
- 31 **F. Permit a privilege, limitations and revocation.** Outdoor Dining is a privilege. The City
32 shall have the right and power, acting through the City Manager, to prohibit the operation
33 of an outdoor dining area at any time because of anticipated or actual problems and
34 conflicts in the use of any affected or impacted right-of-way area.
- 35 a. Such issues and conflicts may arise from, but are not limited to, scheduled
36 festivals and similar events or parades or marches, repairs to the right-of-way,
37 or demonstrations or emergencies occurring in the area.

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- b. The City Manager may suspend or revoke an outdoor dining permit for any reason after providing at least three days prior written notice to a permittee, and the City Manager may cancel an outdoor dining permit without notice in a situation determined by the City Manager to be an emergency.
- c. Any violation of the provisions of this section, any Federal, State, or local law, or of the specific conditions of any outdoor dining permit shall be cause for immediate revocation of the outdoor dining permit.
- d. A sidewalk café, street cafe or seasonal parking lot dining must be used and occupied for outdoor dining. Where not used and occupied for outdoor dining for 30 consecutive days or more, the City Manager may order it removed by the licensee.

7.35.040 - Rooftop Dining. The requirements of this Rooftop Dining section are in addition to the requirements of § 7.35.020 of this chapter.

A. **Permits.** Where authorized, a restaurant may provide seating outside on the roof of the restaurant or building where the restaurant is located for 'Rooftop' Dining.

B. **Application requirements.** The Planning Commission shall review Rooftop Dining applications.

C. **Standards.** Rooftop Dining, where allowed in Title 21 § 64.540, is subject to the following:

1. **Location and distance requirements.**

- a. No portion of a Rooftop Dining area may be located any closer than 75 feet from a residential structure, measured horizontally at grade.
- b. The Rooftop Dining area may be at most 25% of the floor area of the indoor restaurant area and may have at most 25% of the seats in the indoor restaurant area.
- c. Access to the Rooftop Dining area shall be through the restaurant's interior. Exterior access shall be allowed only as emergency access for fire and life safety purposes.

2. **Lighting.** In addition to § 7.35.020 of this chapter, all lighting for Rooftop Dining shall be at or below railing level.

7.35.050 - Seasonal Parking Lot Dining. The requirements of this section are in addition to the requirements of § 7.35.020 of this chapter.

A. **Permits.** Where permitted, vehicle parking spaces in a restaurant parking lot may be replaced by Outdoor Parking Lot Dining.

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- 1 1. **Permit Issuance.** The Director shall issue permits for Seasonal Parking Lot Dining.
- 2 2. **Permit duration.** The Seasonal Parking Lot Dining permit shall be three or six
- 3 months between April 15 and November 1 each year.
- 4 3. **Application Requirements.** The application shall include, but is not limited to, the
- 5 following:
 - 6 a. A letter from the parking lot owner authorizing the lot's use for Seasonal
 - 7 Parking Lot Dining; and
 - 8 b. A picture of the space and a site plan with measurements; and
 - 9 c. The types of barricades proposed for use to protect patrons; and
 - 10 d. The number of impacted parking spaces; and
 - 11 e. Certification of flame retardance application for all tents and umbrellas
 - 12 demonstrating compliance with City standards provided by the Planning and
 - 13 Zoning Department.
- 14 4. **Fees.** Fees shall be paid with the original permit application and the request for a
- 15 permit review.
- 16 5. **Tents.** Usage of tents requires a Temporary Structure (tent) Permit.
- 17 B. **Standards.** Seasonal Parking Lot Dining, where allowed in Title 21 § 64.540, is subject to
- 18 the following:
 - 19 1. **Dining in Parking Lots.**
 - 20 a. **Lots owned by the restaurant.** Required off-street parking may be reduced
 - 21 to accommodate new or expanded outdoor dining areas into existing parking
 - 22 areas.
 - 23 b. **Lots leased by the restaurant.** For multi-tenant commercial properties with
 - 24 shared parking, allowed reductions to existing parking requirements to
 - 25 accommodate outdoor dining shall be based on the total parking requirement
 - 26 for all users and establishments on the property, not solely on the parking
 - 27 requirement for the restaurant(s) proposing to add or expand outdoor dining
 - 28 areas.
 - 29 2. **Alcoholic Beverages.** An updated Alcohol Beverage Control Board license is
 - 30 required to expand the footprint of the existing permit. The application shall
 - 31 include:
 - 32 a. Site plan of the outside dining area; and
 - 33 b. A plan to prevent the service of alcohol to minors; and

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1 c. Specific dates and hours that the designated area will be used for outside
2 dining; and

3 d. Permission from the owner of the designated parking lot if not owned by the
4 applicant.

5 **C. Historic District.** Restaurants located in the historic district shall also:

6 1. Have their application reviewed by the Historic Preservation Commission; and

7 2. Follow outdoor furniture guidelines from the Annapolis Historic District Design
8 Manual; and

9 3. Not use tents.

10
11 **7.35.060 - Sidewalk Café.** The requirements of this section are in addition to the requirements of
12 § 7.35.020 of this chapter.

13 **A. Permits. Where permitted, a restaurant may provide additional seating on the**
14 **sidewalk outside in front of the restaurant for Sidewalk Café dining.**

15 1. **Permit Issuance.** The Director shall issue permits and lease agreements for
16 Sidewalk Cafés.

17 2. **Permit duration.** A Sidewalk Café permit shall be for one year, from May 1 to
18 April 30 of the following year.

19 2. **Application requirements.** *None*

20 3. **Fees.** Fees shall be paid with the original permit application and the request for a
21 permit review.

22 **B. Standards.** Sidewalk Cafés, where allowed in Title 21 § 64.540, are subject to the
23 following:

24 1. **Location and Distance Requirements.**

25 a. **Sidewalk.** No part of a Sidewalk Café area shall encroach upon any part of
26 the sidewalk frontage of any adjacent premises, right-of-way or alley.

27 b. **Right-of-way.**

28 i. A Sidewalk Café must leave a minimum six-foot unobstructed
29 passageway for pedestrians along the length of the café.

30 ii. For operating establishments adjacent to sidewalks less than ten feet
31 wide at the location of the proposed Sidewalk Café, the City Clerk,
32 with the consent of the Department of Public Works, may reduce the

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1 unobstructed passageway to not less than that required by the
2 Americans With Disabilities Act (ADA).

3 **2. Hours of Operation.**

- 4 a. All café seating shall be removed from the café area no later than 30
5 minutes before the permitted closing time of the operating establishment.
6 b. All other furniture, debris and obstructions to the sidewalk shall be cleared
7 no later than 30 minutes before the permitted closing time unless the
8 restaurant is located in the Historic District and exempted from this
9 regulation by the Historic Preservation Commission.

10 **3. Alcoholic Beverages.**

- 11 a. **An updated Alcohol Beverage Control Board license is required to expand**
12 **the footprint of the existing license. The application shall include:**
13 i. **Site plan of the outside dining area; and**
14 ii. **A plan to prevent the service of alcohol to minors; and**
15 iii. **Specific dates and hours for the designated area for outside dining.**
16 b. Notwithstanding any contrary or different hours of operation in its alcoholic
17 beverages license, an operating establishment shall not sell, serve or allow
18 consumption of alcoholic beverages on its Sidewalk Café within 30 minutes
19 before the establishment's permitted closing time.

20 **4. Furniture.** No permanent structures or improvements shall be installed in or near
21 the café area.

22 **5. Prohibited.** The following are prohibited in the café area:

- 23 a. Cooking of food; and
24 b. Unshielded trash or refuse storage; and
25 c. Advertisements (exclusive of menus intended to be read from the café); and
26 d. Exclusively carry out transactions.
27 f. Sidewalk cafes shall not be permitted along Compromise Street.
28

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1 **7.35.070 - Street Café.** The requirements of this section are in addition to the requirements of §
2 7.35.020 of this chapter.

3 **A. Permits.** Where permitted, a restaurant may provide additional seating on the street in front
4 of the restaurant for Street Café dining.

5 1. **Permit Issuance.** The Director shall issue permits and lease agreements for
6 Sidewalk Cafés.

7 2. **Permit Duration.** A Street Café permit shall be for three or six months between
8 April 15 and November 15 each year.

9 2. **Application requirements.** The permit application shall include, but is not limited
10 to, the following:

11 a. The number of parking spaces to be leased, with a two-space maximum on
12 public streets; and

13 b. The closest street address; and

14 c. An image of the parking space(s) where the Street Café is proposed; and

15 d. A site map or drawing of the proposed site with measurements; and

16 e. Certification of flame retardance application for all tents and umbrellas
17 demonstrating compliance with City standards provided by the Planning and
18 Zoning Department.

19 3. **Fees.** Fees shall be paid with the original permit application and the request for a
20 permit review.

21 4. **Tents.** Usage of tents requires a Temporary Structure (tent) Permit.

22 **B. Standards.** Street Cafés are allowed only in zoning districts designated in Title 21 §
23 64.540 of the City Code and are also subject to the following:

24 1. **Location and distance requirements.**

25 a. The area of the street cafés shall not extend beyond the frontage area of the
26 licensed premises of the licensee.

27 b. The Director may, based on extenuating circumstances or if it otherwise
28 deems it advisable to address the best interests of other businesses in the
29 Street Café area or the general public, limit or increase the eligible linear
30 footage for the Street Café area.

31 2. **Alcoholic beverages.** An updated Alcohol Beverage Control Board license is
32 required to expand the footprint of the existing license. The application shall
33 include:

34 a. Site plan of the outside dining area; and

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- b. A plan to prevent the service of alcohol to minors; and
- c. Specific dates and hours that the designated area will be used for outside dining; and
- d. Permission from the owner of the designated parking lot if not owned by the applicant.

C. Historic District. Restaurants located in the historic district shall also:

1. Have their application reviewed by the Historic Preservation Commission; and
2. Follow outdoor furniture guidelines from the Annapolis Historic District Design Manual; and
3. Not use tents.

Title 6 - Revenue and Finance

Chapter 6.16 - Budget

Section 6.16.080 - Mobility and Transportation Services Fund

A. Definitions. For purposes of this chapter, the following words and phrases shall have the meanings set forth below:

1. "Mobility and transportation services" are how people are moved from one place to another and can range from walking, public transportation, ride-hailing services, peddle transportation, micromobility, paratransit and other such services.
2. "Fund" means the Mobility Services and Transportation Fund established by this chapter.

B. Establishment. There is established a fund to collect and retain outdoor dining fees, grants and donations for mobility services in the City of Annapolis.

1. All monies in the fund are subject to appropriation by the City Council and may be used for administration expenses of this chapter.
2. The fund is a continuing, non-lapsing fund to be maintained and administered by the director of the Department of Transportation. The Finance Director shall hold and account for the fund.
3. If cash is received as consideration for the disposition of a capital asset purchased with monies from this fund, that cash shall be applied to the fund.

C. Purpose.

1. This Mobility and Transportation Fund shall support developing, operating, and maintaining transportation systems and services. The funds may be used for a wide range of transportation projects including, but limited to:

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- a. Public transportation infrastructure and operations, such as buses, microbuses, and
- b. Sidewalk and walkway construction and maintenance; and
- c. Pedestrian and bicycle infrastructure; and
- d. Demand-response transportation services for people with disabilities and other mobility-challenged individuals.

2. The funds shall be prioritized to address circumstances where business owners have utilized the outdoor dining programs in § 7.35 of Title 7.

Title 21 - PLANNING AND ZONING

Chapter 21.48 - USE TABLES

Section 21.48.020 - Table of Uses - Commercial and Industrial Zoning Districts

P = Permitted Use; S = Special Exception Use; -Std = Use Subject to Standards (Chapter 21.64); A = Accessory Use; Blank = Not Permitted

Uses	District B1	District B2	District B3	District B3-CD	District BCE	District BR	District C2	District C2A	District PM2	District I1
Outdoor Dining	S	S	S	S	S	S	S		S	
Restaurant, fast food		S-Std	S-Std	S-Std	S-Std					
Restaurant, standard	P-Std, S-Std	P-Std, S-Std	P-Std, S-Std	P-Std, S-Std	P-Std	P-Std	S-Std		P-Std ^{1,2}	
Sidewalk cafés	P-Std	P-Std	P-Std	P-Std	P-Std	P-Std	P-Std		P-Std	P-Std

Section 21.48.030 Table of Uses—Office and Mixed Use Zoning Districts.

Uses	District P	District MX	District PM	District C2P
Outdoor Dining		S	S	
Restaurant, standard		P-Std, S-Std	P-Std, S-Std	
Sidewalk cafés	P-Std	P-Std	P-Std	

Section 21.48.040 Table of Uses—Waterfront Maritime Zoning Districts.

	District WMC	District WMM ³	District WMI ³	District WME
B. Other uses:				
Outdoor Dining	S	S	S	S
Restaurant, standard	S-Std	S-Std	S-Std	S-Std

Title 21 - PLANNING AND ZONING

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1 **Division V - Regulations of general applicability**
2 **Chapter 21.64 - Standards for uses subject to standards**

4 **21.64.540 Restaurants, standard.**

5 Standard restaurants, as defined in Title 21, Section 21.72.010, are subject to food- and
6 beverage-related uses set in Title 21, Section 21.64.300, but the following additional standards
7 shall also apply:

8 A. General Standards for Standard Restaurants. Except as otherwise provided in this section,
9 the following standards apply:

- 10 1. Drive-through service is not permitted
11 2. Catering or delivery service may be permitted as an accessory use.
12 3. Outdoor Dining, where allowed, is subject to Chapter 7.35 of the City Code.

13 ~~Rooftop Dining, where allowed, is subject to the following:~~

- 14 a. ~~Alcoholic beverages shall be served only in conjunction with food service.~~
15 b. ~~Hours of operation shall be limited to 10:00 p.m., seven days a week.~~
16 c. ~~No bar, dancing or live entertainment and no speakers or public address~~
17 ~~system is permitted.~~
18 d. ~~No portion of a Rooftop Dining area may be located any closer than~~
19 ~~seventy-five feet from a residential structure, measured horizontally at~~
20 ~~grade.~~
21 e. ~~The Rooftop Dining area may not exceed twenty-five percent of the floor~~
22 ~~area of the indoor restaurant area and may not have more than twenty-five~~
23 ~~percent of the number of seats in the indoor restaurant area.~~
24 f. ~~Access to the Rooftop Dining area shall be through the interior of the~~
25 ~~restaurant. Exterior access shall be allowed only as emergency access for~~
26 ~~fire and life safety purposes.~~
27 g. ~~Lighting shall be directed away from adjoining properties and streets and~~
28 ~~designed to minimize glare. All lighting shall be at or below railing level.~~
29 h. ~~The design of the Rooftop Dining area shall include noise mitigation~~
30 ~~measures that will minimize adverse impacts on adjoining properties.~~

31 B. B1, B2, B3, B3-CD, and PM Districts—General Standards.

- 32 1. No more than fifty seats are permitted;
33 2. Alcohol is permitted with the service of food;
34 3. Hours of operation are limited to midnight seven days a week;

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- 1 4. No bar, dancing, or live entertainment is permitted, except in the PM District [Section
2 § 64.540(B)] where indoor, live, non-amplified, acoustical musical entertainment is
3 permitted;
- 4 5. Recorded music is allowed indoors and shall be limited to background music only;
- 5 6. Outdoor Dining—~~other than Rooftop Dining~~—may be permitted, subject to the
6 following:
 - 7 a. ~~Alcoholic beverages shall be served only in conjunction with the service of~~
8 ~~food;~~
 - 9 b. ~~Hours of operation shall be limited to 10:00 p.m., seven days a week;~~
 - 10 c. ~~No speakers or public address system shall be allowed.~~
 - 11 d. ~~All music and all noise generated indoors shall be contained indoors, to the~~
12 ~~fullest extent possible.~~
- 13 C. B1, B2, B3, B3-CD, and PM Districts—Exceptions to General Standards.
 - 14 1. PM Districts shall be permitted indoor, live, non-amplified acoustical musical
15 entertainment.
 - 16 2. In the B1 District:
 - 17 a. More than fifty seats may be permitted by special exception; and
 - 18 b. Indoor bars are permitted; ~~and~~
 - 19 c. ~~Outdoor dining is limited to 10:00 p.m., seven days per week;~~
- 20 D. B2, B3, B3-CD, and PM Districts—Requiring Special Exceptions. In the B2, B3, B3-CD,
21 and PM Districts, the following may be permitted by special exception:
 - 22 1. More than fifty seats;
 - 23 2. Bar, dancing, and live entertainment indoors;
 - 24 3. Hours of operation extending past midnight, except for outdoor dining, which may
25 not operate later than 10:00 p.m.;
 - 26 4. Outdoor Dining. ~~Rooftop Dining~~, subject to Subsection 21.64.540(A)(3) of this
27 section.
- 28 E. BCE and BR Districts. In the BCE and BR Districts, the following may be permitted:
 - 29 1. More than fifty seats;
 - 30 2. Outdoor Dining; ~~with the exception of Rooftop Dining, subject to the standards~~
31 ~~enumerated in Subsection 21.64.540(C)(4);~~
 - 32 3. Bar, dancing, and live entertainment; ~~and~~
 - 33 4. ~~Rooftop Dining, subject to Subsection 21.64.540(A)(3) of this Section.~~
- 34 F. MX District. In the MX District:
 - 35 1. The following are permitted by right:
 - 36 a. Any number of seats;
 - 37 b. Alcohol with the service of food;

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- 1 c. Outdoor dining; ~~other than Rooftop Dining, subject to the standards~~
2 ~~enumerated in Subsection 21.64.540(C)(4);~~
3 d. Accessory bars.
- 4 2. Dancing and live entertainment may be permitted by special exception.
- 5 3. ~~Rooftop Dining, subject to Subsection 21.64.540(A)(3) of this Section.~~
- 6 4. ~~Two a.m. alcoholic beverage licenses shall not be permitted for properties within the~~
7 ~~MX-2 or MX-3 Height Districts, but such licenses shall be allowed for properties~~
8 ~~within the MX-1 Height District.~~
- 9 G. WMM, WME, WMI, and WMC. In the WMM, WME, WMI, and WMC Districts, new
10 restaurant uses, which front waterways shall provide public water access. The public water
11 access shall be consistent with the definition provided in Section 21.72.010.
- 12 H. WMC District. ~~In the WMC District the following standards apply:~~
- 13 1. Outdoor Dining may be permitted.
- 14 ~~1. Outdoor dining and Rooftop Dining may be permitted subject to the following:~~
- 15 ~~a. Alcoholic beverages shall be served only in conjunction with food service.~~
16 ~~b. Hours of operation shall be limited to midnight, seven days a week.~~
17 ~~c. No bar, dancing, live entertainment, or speakers or public address system~~
18 ~~allowed.~~
19 ~~d. No portion of a Rooftop Dining area may be located any closer than~~
20 ~~seventy five feet from a residential structure, measured horizontally at~~
21 ~~grade.~~
22 ~~e. Neither the outdoor dining area nor the Rooftop Dining area may have more~~
23 ~~than seventy five percent of the number of seats of the indoor restaurant~~
24 ~~area.~~
25 ~~f. Lighting shall be directed away from the adjoining properties and streets,~~
26 ~~designed to minimize glare, and shall not be directed upwards or towards the~~
27 ~~water. All lighting shall be at or below railing level.~~
28 ~~g. The design of the Rooftop Dining area shall include noise mitigation~~
29 ~~measures that will minimize adverse impacts on adjoining properties.~~
30 ~~h. Sidewalk cafes under Chapter 7.42 shall not be permitted along~~
31 ~~Compromise Street until a substantial widening of those sidewalks~~
32 ~~consistent with the 2013 City Dock Master Plan is accomplished.~~
- 33 2. In conjunction with approval of this use, the property owner shall construct and
34 maintain a public pedestrian walkway adjacent to the water in accordance with the
35 standards set forth in Section 21.62.130, except that structures in existence as of
36 August 24, 1987, located within the public pedestrian walkway shall comply to the
37 extent practicable.
- 38 I. WMM and WMI Districts. In the WMM and WMI Districts, the following standards apply:
- 39 1. This use is permitted only in combination with one of the following maritime triggers:

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- 1 a. A working boatyard of at least twenty thousand square feet and a thirty-ton
- 2 boat lift,
- 3 b. Seafood processing of at least nine thousand square feet,
- 4 c. On-land boat storage of at least twenty-five thousand square feet,
- 5 d. Yacht and sailing clubs providing in-water and on-land boat storage to their
- 6 members, or
- 7 e. Fuel dock.

8 J. WMM District.

- 9 1. In structures in existence as of October 25, 2021, this use may not exceed thirty
- 10 percent of the total gross floor area of development on the lot.
- 11 2. Neither the outdoor dining area nor the Rooftop Dining area may have more than fifty
- 12 percent of the number of seats of the indoor restaurant area.

13 K. WMI District. In the WMI District, the following additional standards apply:

- 14 1. Restaurant use may occupy no more than four thousand square feet combined for
- 15 indoor and outdoor dining.
- 16 2. Outdoor dining may be permitted, ~~subject to the following:~~
- 17 a. ~~Alcoholic beverages shall be served only in conjunction with food service.~~
- 18 b. ~~Hours of operation shall be limited to 10:00 p.m., seven days a week.~~
- 19 c. ~~No amplified sound system shall be allowed.~~
- 20 d. ~~The outdoor dining area may not have more than fifty percent of the number~~
- 21 ~~of seats of the indoor restaurant area.~~

22 L. WME District. In the WME District, the following may be permitted by special exception:

- 23 1. This use may be permitted only in combination with one of the following:
- 24 a. A working boatyard of at least twenty thousand square feet and a thirty-ton
- 25 boat lift, or
- 26 b. Seafood processing of at least nine thousand square feet.
- 27 2. The lot on which the use is proposed must be at least twenty thousand square feet.
- 28 3. The use may occupy no more than two thousand square feet of gross floor area on
- 29 the lot.

31 **Title 7 - BUSINESS LICENSES, TAXES AND REGULATIONS**

32 ~~Chapter 7.42 - Sidewalk Café~~

33 ~~7.42.010 Sidewalk café - Defined - Permit required.~~

34 ~~A. A person shall not construct, maintain, use or operate a sidewalk café without first~~

35 ~~obtaining a permit as provided in this chapter.~~

36 ~~B. An application for a sidewalk café permit shall be made to the City Clerk on forms~~

37 ~~provided by the City Clerk. The application shall be made by the operating establishment.~~

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1 C. ~~A sidewalk café permit shall be for one year from May 1st in each year until the following~~
2 ~~April 30th, except that, for the 1996-1997 term, the permit shall be valid from the date on~~
3 ~~which the permit is issued, even if prior to May 1, 1996. The holder of a permit shall pay~~
4 ~~an annual fee as established by resolution of the City Council. The annual fee shall be paid~~
5 ~~with the original permit application and with the request for renewal of the permit.~~

6 D. ~~For purposes of this chapter, "sidewalk café" means any area situated on a public sidewalk,~~
7 ~~and, as authorized by a lease with the City, any adjoining public street, where food,~~
8 ~~refreshments, and/or beverages are sold by a restaurant, delicatessen, ice cream shop or~~
9 ~~coffee shop (hereinafter "operating establishment") for public consumption at tables or~~
10 ~~counters located on the sidewalk fronting the operating establishment. Sidewalk cafés shall~~
11 ~~operate only as authorized pursuant to this chapter.~~

12 **7.42.020 Standards.**

13 A. ~~No part of a sidewalk café area shall encroach upon any part of the sidewalk frontage of~~
14 ~~any adjacent premises, right-of-way or alley.~~

15 B. ~~A sidewalk café must leave a minimum six-foot unobstructed passageway for pedestrians~~
16 ~~along the length of the café. For operating establishments adjacent to sidewalks less than~~
17 ~~ten feet wide at the location of the proposed sidewalk café, the City Clerk, with the consent~~
18 ~~of the Department of Public Works, may reduce the unobstructed passageway to not less~~
19 ~~than that required by the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) or its~~
20 ~~successors.~~

21 C. ~~The holder of a sidewalk café permit shall fully insure, indemnify, defend and hold~~
22 ~~harmless the City and in their capacity as such, the officers, agents and employees thereof~~
23 ~~from and against any and all claims and damages in any way arising out of or through the~~
24 ~~acts or omissions of the permit holder or its employees in the construction, operation,~~
25 ~~maintenance, use, placement or condition of the sidewalk café. An applicant for sidewalk~~
26 ~~café shall provide proof of such insurance before a permit may be issued or renewed under~~
27 ~~this chapter.~~

28 D. ~~A sidewalk café shall close and all café seating shall be removed from the café area no later~~
29 ~~than thirty minutes before the permitted closing time of the operating establishment. The~~
30 ~~café area shall be cleared of all other furniture (excepting any furniture approved pursuant~~
31 ~~to Section 21.08.060(D) to remain in the café area overnight), debris and obstructions to the~~
32 ~~sidewalk no later than thirty minutes before the permitted closing time of the operating~~
33 ~~establishment.~~

34 E. ~~An operating establishment shall not sell, serve or allow consumption of alcoholic~~
35 ~~beverages on its sidewalk café without obtaining the required license from the Alcoholic~~
36 ~~Beverage Control Board. Alcoholic beverages shall be served on the sidewalk café only in~~
37 ~~conjunction with the service of food. Notwithstanding any contrary or different hours of~~
38 ~~operation in its alcoholic beverages license, an operating establishment shall not sell, serve~~
39 ~~or allow consumption of alcoholic beverages on its sidewalk café within thirty minutes~~
40 ~~before the operating establishment's permitted closing time.~~

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1 ~~F. Sidewalk café furniture shall comply with any and all guidelines adopted pursuant to~~
2 ~~Section 21.08.060(D) of this code. Except as otherwise provided pursuant to Section~~
3 ~~21.08.060(D), all sidewalk café furniture shall be readily moveable and shall be stored~~
4 ~~indoors when not in use. No permanent structures or improvements shall be installed in or~~
5 ~~near the café area.~~

6 ~~G. The following are prohibited in the café area: cooking of food; unshielded trash or refuse~~
7 ~~storage; advertisements (exclusive of menus intended to be read from café); outdoor~~
8 ~~entertainment, music, speakers, or public address system; exclusively carry out~~
9 ~~transactions.~~

10 ~~H. A sidewalk café shall comply with all applicable building, health, safety, fire, zoning and~~
11 ~~environmental standards.~~

12 ~~**7.42.030 Existing sidewalk cafés.**~~

13 ~~Sidewalk cafés in existence in the C2 district as of November 13, 1995 under authority of a~~
14 ~~lease agreement with the City, may, at the option of the lessee, continue to operate pursuant~~
15 ~~to either the existing terms of such lease agreement or the terms of this chapter.~~

16 ~~**7.42.040 Sidewalk café violation.**~~

17 ~~The provisions of this chapter shall be enforced by the Department of Public Works and the~~
18 ~~Department of Planning and Zoning. A person who continues to violate this chapter after a~~
19 ~~written request to take corrective action is guilty of a municipal infraction and shall be~~
20 ~~fined for each violation as established by resolution of the City Council plus costs. In~~
21 ~~addition, the City Council may revoke or suspend a permit issued pursuant to this chapter~~
22 ~~upon a second or subsequent conviction under this section in any twelve month period."~~

23
24 **SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE**
25 **ANNAPOLIS CITY COUNCIL** that this ordinance shall take effect upon passage.

26
27 **SECTION III: AND BE IT FURTHER ESTABLISHED** that the Department, within 90 days of
28 enactment, shall promulgate such regulations as are necessary and proper for the full implementation
29 of this Ordinance.
30

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