

For:

Introduction 9/11/17

Referral to Planning Commission: 9/11/17

Planning Commission Review: 9/11/17

Public Hearing _____

Adoption _____

THE TOWN OF MOUNT AIRY, MARYLAND

ORDINANCE NO. 2017-15

**AN ORDINANCE TO AMEND PART II
OF THE CODE OF THE TOWN OF MOUNT AIRY
ENTITLED “GENERAL LEGISLATION,”
CHAPTER 112 ENTITLED “ZONING,”
BY AMENDING ARTICLE V ENTITLED “PROVISIONS
GOVERNING COMMERCIAL DISTRICTS”, SECTION 112-37.1
ENTITLED “DOWNTOWN ZONE (DTZ)” AND
ARTICLE VIII ENTITLED “BOARD OF APPEALS”,
SECTION 112-62 ENTITLED “SPECIAL EXCEPTIONS”**

WHEREAS, the Town Council has determined that the Town Code requires clarification with respect to outdoor dining, including both sidewalk table dining and second floor outdoor dining, to better define the hours of service limitations, specifically what is meant by the requirement that outdoor seating and/or dining areas be “vacated” after hours and to put in place limitations, and to more clearly impose requirements, with respect to use of the outdoor seating and/or dining areas after designated hours of service; and

WHEREAS, the Town Council has also determined that on Friday and Saturday nights, service of food and alcohol should be extended to 10 p.m. and that outdoor seating areas may be vacated by patrons by 11 p.m.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF MOUNT AIRY:

Section 1. That Chapter 112 of the Code of the Town of Mount Airy is hereby amended to repeal and reenact with amendments Part II, Chapter 112, Article V, Section 112-37.1B(1)(d) of the Code as follows:

§112-37.1. Downtown Zone (DTZ).

* * *

(d) Sidewalk table dining subject to the following provisions:

- [1] Table dining shall be located on private property adjacent to the sidewalk/public right-of-way, in the front of the building and facing the road.

- [2] Table dining may be adjacent to sidewalks bordering Main Street, Center Street to the extent located within the DTZ, the first 250 feet of Prospect as it intersects with North Main Street and the first 250 feet of Park Avenue as it intersects with South Main Street.
- [3] The table dining area shall be delineated from the public right-of-way by a suitable barrier, which may be subject to review by the Planning Commission. The dining area shall not be enclosed in any part by temporary sheathing, permanent walls greater than three feet in height (other than walls associated with adjacent buildings) and shall not serve as a basis for future approval of a permanent enclosure.
- [4] Hours of service shall be limited to 10:00 a.m. to 9:00 p.m. Sunday through Thursday and 10:00 a.m. to 10:00 p.m. on Friday and Saturday. ~~and~~ The outdoor seating area must be vacated by one hour after service ends 10:00 p.m., at which time lights, other than safety and security lighting, shall be not provided, except for one hour for the purposes of trash removal and cleanup and except for the use of the outdoor seating area for ingress and egress and for patrons of the indoor portion of the establishment who use the outdoor area momentarily to smoke and then return to the indoor portion of the establishment without congregating or sitting in groups using the outdoor area seating, tables and/or chairs. There shall be no alcohol consumption, and no bottles, cans, cups or other containers of alcohol in the outdoor area after 10:00 p.m. Rules for using the outdoor area shall be posted in a conspicuous place in the outdoor area. The rules shall set forth the hours of service in the outdoor area, the time that the outdoor area shall be vacated, that after 10:00 p.m. there shall be no alcohol consumed, and no bottles, cans, cups or other containers of alcohol present, in the outdoor area, and that patrons using the outdoor area after 10:00 p.m. for ingress and egress or to smoke shall remain quiet and shall not otherwise disturb the quiet enjoyment of neighboring residences.
- [5] The area must be cleared of trash and food waste within one hour of the time the dining area is vacated.
- [6] Lighting must adhere to Town standards.
- [7] Table dining areas shall be subject to site plan review and approval by the Town of Mount Airy Planning Commission.

- [8] The business owner and/or property owner shall be responsible for any violations of the Town Code, including violations of noise, public nuisance and hours of operations requirements.
- [9] All furniture in an outdoor dining area shall be of durable construction, not be of a design and/or weight that will create a wind-blown hazard and shall be kept in good repair.
- [10] Alcoholic beverages may be served in outdoor dining areas only in conjunction with the service of food and meals.
- [11] An outdoor dining area shall be subject to the same development requirements as indoor areas including but not limited to parking requirements, water use, and capacity.
- [12] The use of any outdoor sound amplification device is prohibited.
- [13] The use of portable heating and cooling equipment is prohibited in table dining areas.
- [14] Signage other than a sandwich sign is prohibited in table dining areas.

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Section 2. That Chapter 112 of the Code of the Town of Mount Airy is hereby amended to repeal and reenact with amendments Part II, Chapter 112, Article VIII, Section 112-62F(27)(f) of the Code as follows:

§112-62. Special exceptions.

* * *

- F. Specific standards for special exception uses. In addition to the general standards for all special exceptions as contained in § 112-62E, the following specific standards for particular uses must be met prior to the granted of a special exception:

* * *

(27)Second floor outdoor dining/seating. Second floor outdoor dining/seating in the DTZ District, subject to the following conditions:

* * *

- (f) Hours of service shall be limited to 10:00 a.m. to 9:00 p.m. Sunday through Thursday and 10:00 a.m. to 10:00 p.m. on Friday and Saturday. ~~and~~ The outdoor

seating area must be vacated by one hour after service ends, at which time lights, other than safety and security lighting, shall not be provided except for one hour for the purposes of trash removal and cleanup and except for the use of the outdoor seating area for ingress and egress and for patrons of the indoor portion of the establishment who use the outdoor area momentarily to smoke and then return to the indoor portion of the establishment without congregating or sitting in groups using the outdoor area seating, tables and/or chairs. There shall be no alcohol consumption, and no bottles, cans, cups or other containers of alcohol in the outdoor area after 10:00 p.m. Rules for using the outdoor area shall be posted in a conspicuous place in the outdoor area. The rules shall set forth the hours of service in the outdoor area, the time that the outdoor area shall be vacated, that after 10:00 p.m. there shall be no alcohol consumed, and no bottles, cans, cups or other containers of alcohol present, in the outdoor area, and that patrons using the outdoor area after 10:00 p.m. for ingress and egress or to smoke shall remain quiet and shall not otherwise disturb the quiet enjoyment of neighboring residences.

* * *

BE IT ENACTED AND ORDAINED BY THE AUTHORITY AFORESAID, that

this Ordinance shall take effect on the ____ day of _____, 2017.

Introduced this ____ day of _____, 2017.

Enacted this ____ day of _____, 2017 by a vote of ____ in favor and ____ opposed.

ATTEST:

Jason Poirier, Secretary

Peter R. Helt, President of the Town Council

Approved this ____ day of _____, 2017.

ATTEST:

Jason Poirier, Secretary

Patrick T. Rockinberg, Mayor

REVIEWED AND APPROVED AS TO LEGAL FORM AND SUFFICIENCY.
This _____ day of _____, 2017.

Thomas V. McCarron, Town Attorney

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